



**COMMONWEALTH OF MASSACHUSETTS
TOWN OF STOUGHTON
ANNUAL TOWN ELECTION AND TOWN MEETING WARRANT**

Norfolk, ss. Officer's Return, Stoughton:

By virtue of this Warrant, I, on March , 2010 notified and warned the inhabitants of the Town of Stoughton, qualified to vote on Town affairs, to meet at the place and at the time specified by posting attested copies of this Annual Town Election and Town Meeting Warrant in the following public places within the Town of Stoughton:

Precinct 1	Stop & Shop	278 Washington Street
Precinct 2	Stoughton Public Library	84 Park Street
Precinct 3	Bob's Foodmart	289 Park Street
Precinct 4	Andy's Market	330 Plain Street
Precinct 5	Tomas Variety Store	257 School Street
Precinct 6	Stoughton Quick Stop	2139 Central Street
Precinct 7	Page's Grocery & Liquors	458 Pearl Street
Precinct 8	Town Hall	10 Pearl Street
Precinct 8	Stoughton Police Department	26 Rose Street

The date of posting being not less than fourteen (14) days prior to April 6, 2010, the date set for the Annual Town Election in this Warrant.

Lawrence Verdun
Constable
Stoughton, MA



**COMMONWEALTH OF MASSACHUSETTS
TOWN OF STOUGHTON
ANNUAL TOWN ELECTION AND TOWN MEETING WARRANT**

Norfolk, ss:

To any of the Constables of the Town of Stoughton, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Stoughton, qualified to vote in elections and town affairs to meet at the:

Precinct 1 – Joseph R. Dawe, Jr. Elementary School, 131 Pine Street;
Precinct 2 – E. A. Jones Elementary School, 137 Walnut Street;
Precinct 3 – South Elementary School, 171 Ash Street;
Precinct 4 – Joseph H. Gibbons Elementary School, 235 Morton Street;
Precinct 5 – Joseph H. Gibbons Elementary School, 235 Morton Street;
Precinct 6 – Helen H. Hansen Elementary School, 1800 Central Street;
Precinct 7 – West Elementary School, 1322 Central Street; and
Precinct 8 – Robert G. O'Donnell Middle School, 211 Cushing Street

on

TUESDAY, THE 6th DAY OF APRIL, 2010
from 7:00 a.m. – 8:00 p.m.

then and there to act on the following article(s):

ARTICLE 1 (ID 1) ANNUAL TOWN ELECTION

TO CHOOSE BY BALLOT THE FOLLOWING TOWN OFFICES:

SELECTMEN: One to be elected for a term of three years.

SCHOOL COMMITTEE: Two to be elected for a term of three years.

MODERATOR: One to be elected for a term of one year.

Town Meeting Representatives:

PRECINCT 1	Seven to be elected for a term of three years; Two members for one year;
PRECINCT 2	Seven to be elected for a term of three years; One member for two years;
PRECINCT 3	Seven to be elected for a term of three years; one member for two years;
PRECINCT 4	Seven to be elected for a term of three years;
PRECINCT 5	Seven to be elected for a term of three years; one member for two years; one member for one year;
PRECINCT 6	Seven to be elected for a term of three years; one member for two years;

PRECINCT 7 three members for one year;
Seven to be elected for a term of three years; three members for one year;
and
PRECINCT 8 Seven to be elected for a term of three years; six members for two years;
three members for one year.

QUESTION 1:

Shall this Town approve the charter amendment proposed by the Town Meeting summarized below?

YES.	<input type="checkbox"/>
NO.	<input type="checkbox"/>

Summary: The May 4, 2009 Annual Town Meeting approved an amendment to Section 7-6 of the Stoughton Town Charter. This amendment would clarify that when there is a vacancy in the office of Town Meeting Representative, the remaining precinct Representatives shall meet to fill the vacancy pursuant to the Charter not less than fourteen (14) days before the convening of the next Annual or Special Town Meeting. If approved by the voters, this Charter amendment shall take effect 60 days after the election.

QUESTION 2. Shall this Town approve the charter amendment proposed by the Town Meeting summarized below?

YES.	<input type="checkbox"/>
NO.	<input type="checkbox"/>

Summary: The May 4, 2009 Annual Town Meeting approved an amendment to Section 7-7 of the Stoughton Town Charter. This amendment would provide that the Town Clerk shall prepare a list of Town Meeting Representatives present and absent from all Town Meeting sessions within 30 days of the dissolution of any Town Meeting, and such list shall be posted in Town Hall and published in either a local newspaper or on the official Town website.

QUESTION 3. Shall this Town approve the charter amendment proposed by the Town Meeting summarized below?

YES.	<input type="checkbox"/>
NO.	<input type="checkbox"/>

Summary: The September 30, 2009 Special Town Meeting approved an amendment to Section 8-2 of the Stoughton Town Charter. This amendment would provide that the Town Clerk call a Preliminary Election when more than three candidates for each office are to be filled and preliminary election to be held forty-nine days before the regular town elections.

At seven-thirty o'clock in the evening, at which time and place the following articles are to be acted upon and determined exclusively by the Town Meeting Members in accordance with the provision of the Town of Stoughton Charter.

You are also to notify the inhabitants aforesaid to meet at:

STOUGHTON HIGH SCHOOL AUDITORIUM

ON MONDAY the THIRD DAY of MAY, 2010

at seven-thirty o'clock in the evening, then and there to act on the following Articles:

ARTICLE 2 (ID 2) Receive Reports

Not assigned

To see if the Town will vote to **receive the reports** of any Boards or Town Officers or of any Commission of the Town; or take any other action relative thereto.

Petitioner: Board of Selectmen
December 31, 2009

ARTICLE 3 (ID 3) Ambulance Dept. Enterprise Fund Budget

FINANCE*

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to fund the **Ambulance Department** for Fiscal 2011; or take any other action relative thereto.

Petitioner: Board of Selectmen
December 31, 2009

ARTICLE 4 (ID 4) Cedar Hill Enterprise Fund Budget

FINANCE*

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to fund the **Cedar Hill Golf Course** for Fiscal 2011; or take any other action relative thereto.

Petitioner: Board of Selectmen
December 31, 2009

ARTICLE 5 (ID 5) Public Health Assn. Enterprise Fund Budget

FINANCE*

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to fund the **Stoughton Public Health Association** for Fiscal 2011; or take any other action relative thereto.

Petitioner: Board of Selectmen
December 31, 2009

ARTICLE 6 (ID 6) Sewer Dept. Enterprise Fund Budget

FINANCE*

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to fund the **Sewer Department** for Fiscal 2011; or take any other action relative thereto.

Petitioner: Board of Selectmen
December 31, 2009

ARTICLE 7 (ID 7) Water Dept. Enterprise Fund Budget

FINANCE*

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to fund the **Water Department** for Fiscal 2011; or take any other action relative thereto.

Petitioner: Board of Selectmen
December 31, 2009

ARTICLE 8 (ID 8) Revolving Funds

FINANCE*

To see if the Town will vote to **re-authorize the use of the Revolving Accounts** as authorized under the provisions of M.G.L. Ch. 44, Section 53E ½ for the Council on Aging, the Recreation Department, the Geographic Information Systems, (GIS), the Stoughton Community Events Committee, the Stoughton Youth Commission, the Conservation Commission, the Board of Health (Hazardous Waste Material Control By-law), the Department of Public Works (Storm-water Management) and Compost Bin Program; or take any other action relative thereto.

Petitioner: Board of Selectmen
December 31, 2009

ARTICLE 9 (ID 9) Budget

FINANCE*

To see what sum of money the Town will vote to raise and appropriate and/or transfer from available funds in the Treasury, if any, for the **maintenance and support of the several departments of the Town** and for any other usual or necessary town charges for the Fiscal Year 2011; or take any other action relative thereto.

Petitioner: Board of Selectmen
December 31, 2009

ARTICLE 10 (ID 10) Community Preservation Distribution, Budget

To receive the Report of the **Community Preservation Committee**; to act on the recommendations for the distribution of Community Preservation Funds; to appropriate from the Community Preservation Fund a sum of money to meet the administrative expenses and all other necessary and proper expenses of the Community Preservation Committee for the Fiscal Year 2011; to reserve for future appropriation a sum of money for the acquisition, creation of open space excluding land for recreational use; a sum of money for acquisition, preservation, restoration and rehabilitation of historic resources; a sum of money for the acquisition, creation, and preservation of community housing; to appropriate from the Community Preservation Fund a sum or sums of money for Community Preservation Projects or purposes, all as recommended by the Community Preservation Committee. Said appropriations to be in accordance with

the applicable rules and statutes of the Community Preservation Act; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Town Manager's Office for the Community Preservation Committee
December 31, 2009

ARTICLE 11 (ID 55) Supplement Fiscal Year 2010 Departmental Budgets

To see if the Town will vote to transfer from available funds in the Treasury, if any, a sufficient sum of money to supplement Fiscal Year 2010 departmental budgets or fund previously approved articles; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by William Rowe, Town Accountant
January 27, 2010

ARTICLE 12 (ID 23) Unpaid Bills

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay any **unpaid bills** from prior fiscal years in excess of departmental appropriations; or to take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by William Rowe, Town Accountant
December 16, 2009

ARTICLE 13 (ID 42) Regulations for the Sale of Tobacco Products:

To see if the Town will vote to authorize the Board of Health to establish a Revolving Fund Account under the provisions of MGL, Chap. 44: Section 53 and to use permit fees and funds collected from penalties for the administration of the Regulations of the Stoughton Board of Health Sale of Tobacco Products to minors; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Ben Fehan, Town Engineer
January 13, 2010

Estimated cost \$5,000

ARTICLE 14 (ID 40) Special Legislation

To see if the Town will vote to petition the General Court of the Commonwealth for special legislation as follows:

For the Town of Stoughton, notwithstanding the provisions of Chapter 40, §5B, Chapter 44, §53F1/2 or any other contrary statute, if, in any fiscal year, the certified retained earnings as of July 1 of that fiscal year of the Public Health Enterprise Fund exceeds the approved fiscal year operating budget of said Fund, such excess shall be transferred, without further appropriation, by the Town Accountant to the Town Stabilization Fund.

or take any other action relative thereto.

Petitioner: Board of Selectmen,
Requested by William Rowe, Town Accountant
December 31, 2009

ARTICLE 15 (ID 26) Local Meals Excise Tax

To see if the Town will vote to accept G.L. c. 64L, section 2(a) to impose a local meals excise of .75%, or take any other action thereto.

Petitioner: Eric Kolman, 14 Kotlik St., et al.
December 23, 2009

ARTICLE 16 (ID 27) Local Room Occupancy Tax

To see if the Town vote to amend its local room occupancy excise under G.L. c. 64G, Section 4(1) to the rate of 6% or take any other action thereto.

Petitioner: Eric Kolman, 14 Kotlik St., et al.
December 23, 2009

ARTICLE 17 (ID 24) Rescind Un-issued Borrowings

To see if the Town will vote to **rescind the un-issued borrowing authorizations** on certain previously voted town meeting articles; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by William Rowe, Town Accountant
December 16, 2009

ARTICLE 18 (ID 25) Stabilization Fund

To see if the Town will vote to raise and appropriate, or transfer from available funds, if any, in the Treasury to fund the **Stabilization Fund** established in accordance with Massachusetts General Laws, Chapter 40, Section 5B; or to take any other action relative thereto.

Petitioner: Board of Selectmen
December 16, 2009

ARTICLE 19 (ID 64) Reduction in Tax

Filing for Reduction in Tax. Tax increases should be limited to a maximum 2.5% increase per year. The Town of Stoughton has exceeded this limit over the last 2 years. This needs to be corrected

or take any other action relative thereto.

Petitioner: William Harrop, 40 Rocky Knoll Drive, et al.
January 28, 2010

ARTICLE 20 (ID 11) Stoughton Media Contract

To see if the Town will vote to permit the Board of Selectmen to enter into a contract with the Stoughton Media Access Corporation, to provide cable television access services to the Town, for a period of five (5) years, and to have a further five (5) year option to renew, as permitted by Section 16-5 of the Stoughton By-Laws, or to take any other action relative there to.

Petitioner: William Hewig, III, Kopelman & Paige, P.C.
Requested by Board of Selectmen
November 25, 2009

[EXPLANATION – The bylaw requires town meeting approval for any contract for a municipal or regional vendor in excess of three years. The Selectmen and the access corporation desire a five-year term for purposes of obtaining financing relative to the proposed access studio; and they seek a five year option to renew for the same purposes, and to make the total ten-year agreement co-terminus with the currently existing 10-year cable television license granted to Comcast in November 2009.]

ARTICLE 21 (ID 21) Accept and Contract Funds for Town Roads FINANCE*

To see if the Town will vote to authorize the Board of Selectmen to accept and enter into contracts for the expenditure of any funds allocated or to be allocated by the Commonwealth for the construction, reconstruction, and **improvements of Town roads**; or to take any other action relative thereto.

Petitioner: Board of Selectmen
December 16, 2009

ARTICLE 22 (ID 22) Apply for and Accept Federal /State Funding FINANCE*

To see if the Town will vote to authorize the Board of Selectmen to **apply for and accept any Federal and/or State funding** which may be available to the Town; or to take any other action relative thereto.

Petitioner: Board of Selectmen
December 16, 2009

ARTICLE 23 (ID 38) Update Town Code Book

To see if the he Town vote to authorize the Town Manager to appoint a Committee of five persons familiar with General by-laws, Town Charter, Board Regulations and Zoning By-laws to examine all appropriate official town documents, records of Town Meetings, notification of acceptance or approval by the Attorney General or Secretary of the Commonwealth of all known legislative acts applicable to the Town of Stoughton since the 1983 publication of the Town Code, in order to update, correct and prepare for publication of an Official Town Code Book according to the codification and captioning format recommended by General Code Publishers in 2005; and further to raise and appropriate, transfer and or borrow a sum of money to pay the regular expenses of said by-law review committee including the employment of such professional, clerical and legal services as may be necessary to conform to the requirements of Article 14 §C14-3 of the Town Charter; or take any other action relative thereto.

Requested by: Board of Selectmen
Requested by Howard Hansen, Town Moderator
December 30, 2009

Explanation: The 2004 Annual Town Meeting voted to “Re-Codify and Re-Caption the Town Code”. A new town code book was prepared by a contracted vendor in 2005 and presented to the 2006 Annual Town Meeting. **Only the Re-captioning and Re-codification** of the General By-law, Regulations and Town Charter were accepted by Vote of Town Meeting. The Attorney-General **did not approve** the vote of Town Meeting to accept the **Zoning By-law Re-codification** as Zoning By-laws required a separate 2/3rds vote. The Attorney-General noted that if there were any **substantive changes in the text of these by-laws** from the time they were originally adopted or subsequently amended, they **were not approved** by the Attorney-General. The Town is directed to rely on the records of the 1983 code book and subsequent records of Town Meeting amendments for the “official copy” Upon examination of the 2005 code book, there were major errors and omissions found in the text of the Town Charter and the Zoning By-laws in the town code book. The 2007 Annual Town Meeting authorized the Town Manager to appoint a By-law Review Committee that has nearly completed reviewing all original documents of the Town Charter and has prepared a draft with all citations and which is to be sent to the Attorney-General to be the designated the Official Charter. The Town Clerk is required to have “Official Records of all the Town By-laws.” The Charter requires that the Town Manager cause to have the Town Code Book updated every five year. This article is intended to have a committee oversee this project. It does not authorize the Review Committee to draft any amendments or new by-laws.

ARTICLE 24 (ID 48) Human Resources Director

To see if the Town will vote to transfer from available funds in the Treasury, if any, for the position of Human Resources Director for the Town of Stoughton. The Human Resources Director shall be appointed by the Town Manager and be responsible for developing and maintaining the personnel system, job classifications, salary structures, benefits and providing general direction on personnel issues and procedures, or take any other action relative thereto.

Petitioner: Board of Selectmen
February 2, 2010

Estimated Cost: \$80,000.00

ARTICLE 25 (ID 30) Hire 7 Firefighters/Paramedics

To see whether the town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the hiring of seven (7) Firefighter/Paramedics in the 3rd year of the grant if awarded; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Fire Chief, Dave Jardin
December 29, 2009

Estimated cost \$ 400,000.00

[EXPLANATION – TM must accept to be accepted by Town; Grant written – 100% reimbursement for two years from start date not date of hire; brings us back to 13 man shift per MMA report written in late 90’s; reduction in OT and generate revenue from the Ambulance]

ARTICLE 26 (ID 29) Fire Dept. Apparatus Intercom System

To see whether the town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the purchase of an Apparatus Intercom Systems (30 riding positions); or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Fire Chief, Dave Jardin
December 29, 2009

Estimated cost \$ 30,000.00

ARTICLE 27 (ID 31) Replace Ladder No. 2

To see whether the town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the purchase to replace Ladder # 2; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Fire Chief, Dave Jardin
December 29, 2009

Estimated cost \$ 800,000.00

[EXPLANATION – Re-built in and purchased used in 1995 (rebuilt 15 years) 1985/1988; Grant written Town share (10%) \$80,000 (25/22 years)]

ARTICLE 28 (ID 32) Replace Ambulance No. 3

To see whether the town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the purchase to replace Ambulance # 3; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Fire Chief, Dave Jardin
December 29, 2009

Estimated cost \$ 250,000.00 (1999)

ARTICLE 29 (ID 33) Replace Engine No. 1

To see whether the town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the purchase to replace Engine #1 (Reserve Pumper) with used 2001 Pierce from neighboring FD; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Fire Chief, Dave Jardin
December 29, 2009

Estimated cost \$ 50,000.00

[EXPLANATION – Trade in value of Engine 1 at \$12,000 - \$15,000; this would put in great shape with Pumpers for next 10-12 years]

ARTICLE 30 (ID 34) Replace Fire Dept. Support Vehicles

To see whether the town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the purchase to replace two (2) support vehicles; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Fire Chief, Dave Jardin
December 29, 2009

Estimated Cost \$ 50,000.00

[EXPLANATION – Deputy Chiefs Vehicle – 1997 GMC; Training Captains Vehicle 1997 GMC]

ARTICLE 31 (ID 35) Upgrade Fire Station No. 1

To see whether the town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the Upgrade of Station #1 (Freeman St); or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Fire Chief, Dave Jardin
December 29, 2009

Estimated Cost \$ 500,000.00

[EXPLANATION – Remodel cost depends on year of replacement; 83 year old building (built 1927) – example of remodeling needed restrooms, kitchen, AC/vent system, lower ceilings, windows, doors, create a more energy efficient building; concrete floors and apron @ overhead doors, small roof over Dispatch center and offices]

ARTICLE 32 (ID 36) Replace Fire Station Number 1

To see whether the town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the replacement of Station #1 (Freeman St); or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Fire Chief, Dave Jardin
December 29, 2009

Estimated Cost \$ 7 million

[EXPLANATION – Grant written for \$5 million – Town share \$2 million]

ARTICLE 33 (ID 37) Convert Former Armory to Fire Station

To see if the Town will vote to raise and appropriate, and or borrow a sum of money to procure plans to convert the Stoughton Armory on Pleasant Street to a fire station to replace the Central Fire Station on Freeman Street; or take any other action relative thereto.

Petitioner: Edward J. DeFelice, 200 Ethyl Way, et al.
December 30, 2009

ARTICLE 34 (ID 70) Replace marked cruisers

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum to replace four marked cruisers, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Thomas Murphy, Acting Chief of Police
January 28 2010

Estimated Cost: \$176,240

ARTICLE 35 (ID 71) Upgrade HVAC System at Police Station

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum to pay for the design and construction cost associated with upgrading the HVAC system at the Police Station, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Thomas Murphy, Acting Chief of Police
January 28 2010

Estimated Cost: \$41,356.26

ARTICLE 36 (ID 72) Fix Damaged Mechanical Room at Police Station

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum to pay for the construction/repair cost associated with the fixing of the damaged mechanical room floor at the Stoughton Police Station, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Thomas Murphy, Acting Chief of Police
January 28, 2010

Estimated Cost: \$10,000

ARTICLE 37 (ID 73) Fix Radio Transmission/reception Signal Failures

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum to pay for the design, equipment, and construction/repair cost associated with fixing the radio transmission/reception signal failures associated with the Stoughton Police radio system and satellite location systems, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Thomas Murphy, Acting Chief of Police
January 28, 2010

Estimated Cost: \$9,000

ARTICLE 38 (ID 15) Water Department Vehicles

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to replace and/or purchase the following equipment for the Water Department:

<u>Equipment</u>	<u>Estimated Cost</u>
Replace 1997 Pick up Truck	\$22,068.00
Replace 1998 GMC Maintenance Vehicle	\$55,252.00

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by John Batchelder, Superintendent of Public Works
December 22, 2009

ARTICLE 39 (ID 16) Sewer Department Vehicles

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to replace and/or purchase the following equipment for the Sewer Department:

<u>Equipment</u>	<u>Estimated Cost</u>
Replace 1979 Chevy Van	\$50,982.00
Purchase a Back up Pump for Turnpike Street	\$13,934.50
Replace Daly Dr. Generator (39 years old)	\$37,000.00

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by John Batchelder, Superintendent of Public Works
December 22, 2009

ARTICLE 40 (ID 17) Highway Department Vehicles

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to replace and/or purchase the following equipment for the Highway Department:

<u>Equipment</u>	<u>Estimated Cost</u>
Replace 1988 International Dump Truck	\$110,000.00
Replace 1988 4x4	\$ 33,496.00
Replace 1991 Ford F350 Dump Truck	\$ 53,509.00
Replace Bobcat Loader	\$ 45,000.00

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by John Batchelder, Superintendent of Public Works
December 22, 2009

ARTICLE 41 (ID 56) Purchase a New Vehicle for School Department

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to

Purchase a New Vehicle (3/4 ton truck), or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by School Committee
January 28, 2010

Estimated Cost \$40,000

ARTICLE 42 (ID 57) Restore the Surface of the Track at Stoughton High School

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to Restore the Surface of the Track at Stoughton High School, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by School Committee
January 28, 2010

Estimated Cost \$100,000

ARTICLE 43 (ID 58) Purchase Materials to Install a SPS System-wide Fiber Wide Area Network Upgrade

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to Purchase Materials to Install a SPS System-wide Fiber Wide Area Network Upgrade, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by School Committee
January 28, 2010

Estimated Cost \$200,000 (approx. \$25,000 per mile)

ARTICLE 44 (ID 59) Purchase and Install Interactive Smartboards

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to Purchase and Install Interactive Smartboards in the High School, O'Donnell Middle School and all 4th and 5th Grade Elementary Classrooms, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by School Committee
January 28, 2010

Estimated Cost \$360,000

ARTICLE 45 (ID 60) Replace the Roof at the E. A. Jones Elementary School

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to Replace the Roof at the Edwin A. Jones Elementary School, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by School Committee
January 28, 2010

Estimated Cost \$600,000

ARTICLE 46 (ID 61) Design, Connect and Extend a New Electrical Service for the E. A. Jones Elementary School

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to **Design, Connect and Extend a New Electrical Service for the E.A. Jones Elementary School**, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by School Committee
January 28, 2010

Estimated Cost \$200,000

ARTICLE 47 (ID 62) Complete a Study and Develop a Master Plan for ADA Renovations and Upgrade Town-wide Sites (fields, playgrounds, trails, etc.)

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to Complete a Study and Develop a Master Plan for ADA Renovations and **Upgrade Town-wide Sites (fields, playgrounds, trails, etc.)**, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by School Committee
January 28, 2010

Estimated Cost \$50,000

ARTICLE 48 (ID 63) Perform Priority Repairs and/or upgrades as outlined in the Town-wide Facilities Master Plan

To see if the Town will vote to raise and appropriate, transfer from available funds in the treasury, if any, and/or borrow a sufficient sum of money to perform priority repairs and/or upgrades as outlined in the Town-wide Facilities Master Plan; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Stoughton Facilities Master Planning Committee
Richard Fitzgerald, Chair
January 28, 2010

Estimated Cost \$50,000

ARTICLE 49 (ID 28) Survey of property lines in the area between Joanne Road and Mahoney Avenue:

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the survey of property lines in the vicinity of Joanne Road and Mahoney Ave. Work to include research, survey, property line establishment and deed modification to determine the correct metes and bounds in the vicinity of # 45 Joanne Road; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Ben Fehan, Town Engineer
January 21, 2010

Estimated cost \$10,000

ARTICLE 50 (ID 41) Design of Improvements to Red Wing Brook

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the survey, easement drawings and design of improvements to Red Wing Brook off York Street suitable for public bidding, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Ben Fehan, Town Engineer
January 13, 2010

Estimated cost \$170,000

ARTICLE 51 (ID 46) Construction of Small Drainage Improvements:

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for the construction of general drainage improvements, in areas selected by the Town Engineer; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Ben Fehan, Town Engineer
January 21, 2010

Estimated cost \$20,000

ARTICLE 52 (ID 45) Stormwater NPDES

To see if the Town will vote to raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for all activities associated with and required by the State regarding the Stormwater NPDES Regulations, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Ben Fehan, Town Engineer
January 13 2010

Estimated cost \$80,000

ARTICLE 53 (ID 49) Improvements to the sewer system to reduce infiltration and Inflow

To see if the Town will vote to borrow a sufficient sum of money to continue improvements of the sewer system to reduce infiltration and Inflow (I&I); or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by John Batchelder, Superintendent of Public Works
February 2, 2010

Estimated Cost: \$500,000.00

ARTICLE 54 ID 44 Accept Young Way and Swallow Lane as a Public Way

To see if the Town will vote to accept the ways known as Young Way (approx. 520 ft.) and Swallow Lane (approx. 230 ft.), in their entirety, as public ways and raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for recording the same or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Ben Fehan, Town Engineer
January 13, 20100

Estimated cost \$500

ARTICLE 55 (ID 47) Street Acceptance – Highland Rock Drive

To see if the Town will vote to accept the way known as Highland Rock Drive (approx. 600 ft.), in it's entirety, as a public way and raise and appropriate, transfer from available funds in the Treasury, if any, and/or borrow a sufficient sum of money to pay for recording the same; or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Ben Fehan, Town Engineer
January 21, 2010

Estimated cost \$500

ARTICLE 56 (ID 66) Accept Water, Sewer Easement at Shoppes at Page Pointe

To see if the Town will vote to authorize the Board of Selectmen to accept certain easements from Stoughton (E&A) , LLC, a South Carolina limited liability company, and from Target Corporation, a Minnesota corporation, said easements being depicted as “Easement ‘A’ Proposed Water and Sewer Access and Maintenance Easement,” and as “Easement ‘A-1’ Proposed Water and Sewer Access and Maintenance Easement,” on a plan appended to said easement and entitled “Utilities Easement Plan – Shoppes at Page Pointe, Turnpike Street, Stoughton, Massachusetts,” as prepared for Edens & Avant by Cubellis, Inc., dated 9/24/08, to use said easement areas for public sewer line, water line, and related facilities purposes and for all other purposes for which public sewer line, water line and related facilities are now or hereafter used in said Town of Stoughton, and to use said easement areas to gain access over and across the easement areas to the sewer station located adjacent to said easement areas and identified as the Town of Stoughton Hawes Way Pump Station, all with respect to the land located off of Hawes Way, shown on Assessors Map No. 95, Lots 29, 30, and 34, on such terms and conditions and for such consideration as the Selectmen may determine, which may be nominal consideration; or take any other action relative thereto.

Petitioner: Board of Selectmen
Submitted by Barry R. Crimmins, Esq., 909 Washington Street
January 28, 2010

ARTICLE 57 (ID 67) Accept Proposed 15’ Wide Water Line Easement

To see if the Town will vote to authorize the Board of Selectmen to accept a certain easement from 489 Page Street, LLC, a South Carolina limited liability company, said easement being depicted as “Easement ‘B’ Proposed 15’ Wide Water Line Easement,” on a plan appended to said easement and entitled “Utilities Easement Plan – Shoppes at Page Pointe, Turnpike Street, Stoughton, Massachusetts,” as prepared for Edens & Avant by Cubellis, Inc., dated 9/24/08, to use said easement area for public water line and related facilities purposes and for all other purposes for which public water line and related facilities are now or hereafter used in said Town of Stoughton, all with respect to the land located off of Turnpike Street and Page Street, shown on Assessors Map No. 95, Lots 30 and 34, on such terms and conditions and for such consideration as the Selectmen may determine, which may be nominal consideration; or take any other action relative thereto.

Petitioner: Board of Selectmen
Submitted by Barry R. Crimmins, Esq., 909 Washington Street
January 28, 2010

ARTICLE 58 (ID 68) Accept Utility and Right of Way Easement Plan – Stoughton Crossing

To see if the Town will vote to authorize the Board of Selectmen to accept a certain easement from Stoughton Crossing, Inc., a Massachusetts Corporation, as Trustee of Route 139 Realty Trust, under a declaration of trust dated April 20, 1994, recorded with the Norfolk County Registry of Deeds in Book 10555, Page 176 on June 6, 1994, said easement being shown on an exhibit appended to said easement entitled “Utility and Right of Way Easement Plan – Stoughton Crossing, Turnpike Street, Stoughton, Massachusetts,” as prepared for Edens and Avant by Cubellis, Inc., dated 3/19/07, to use said easement area for public sidewalk and highway purposes and for all other purposes for which public ways are now or hereafter used in said Town of Stoughton, all with respect to the land located off of Turnpike Street, shown on Assessors Map No. 95, Lots 1, 2, 3, and 4, on such terms and conditions and for such

consideration as the Selectmen may determine, which may be nominal consideration; or take any other action relative thereto.

Petitioner: Board of Selectmen
Submitted by Barry R. Crimmins, Esq., 909 Washington Street
January 28, 2010

ARTICLE 59 (ID 18) Charter Change: Polling Places

To see if the Town will vote to amend the Stoughton Town Charter, § C8-3 and **Delete** § C8-3. Polling places.

Current Language: § C8-3. Polling places. A polling place shall be made available in each of the precincts for all elections.

or take any other action relative thereto.

Petitioner: Board of Selectmen,
Requested by Cheryl A. Mooney, Town Clerk
December 23, 2009

ARTICLE 60 (ID 74) CHARTER CHANGE: Polling Places

To see if the Town will vote to delete § C8-3 Polling places.

A polling place shall be made available in each of the precincts for all elections.

And substituting in its place the following:

§ C8-3 Polling places.

The Board of Selectman, with the input of the School Department, shall be responsible for determining the best location (s) for voting in the Town of Stoughton.

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Lynne Jardin, Principal, representing Gibbons Elementary School Council
January 28, 2010

ARTICLE 61 (ID 19) Delete § C8-4. Nomination Papers; time of filing; signatures.

To see if the Town will vote to amend the Stoughton Town Charter, § C8-4. Nomination Papers; time of filing; signatures. as it now reads:

§ C8-4. Nomination Papers; time of filing; signatures.

Nomination papers for elected Town offices other than Town Meeting Representatives must be filed with the Board of Registrars thirty-five days prior to the date of the preliminary Town election and with the Town Clerk twenty-eight days prior to the date of the preliminary Town election and shall be signed by

not less than one hundred registered voters of the Town, increased by one-fifth thereof. Nomination papers for the office of Town Meeting Representative must be filed with the Board of Registrars thirty-five days prior to the annual Town election and with the Town Clerk twenty-eight days prior to the annual Town election. Incumbents seeking re-election may designate only the word “re-election” on their nomination papers and on the ballot.

And substituting in its place the following:

§ C8-4. Nomination Papers; time of filing; signatures.

Nomination papers for elected Town offices other than Town Meeting Representatives must be filed with the Board of Registrars ~~thirty-five~~ **forty-nine** days prior to the date of the preliminary Town election and with the Town Clerk ~~twenty-eight~~ **thirty-five** days prior to the date of the preliminary Town election and shall be signed by not less than one hundred registered voters of the Town, increased by one-fifth thereof. Nomination papers for the office of Town Meeting Representative must be filed with the Board of Registrars ~~thirty-five~~ **forty-nine** days prior to the Annual Town election and with the Town Clerk ~~twenty-eight~~ **thirty-five** days prior to the annual Town election. Incumbents seeking re-election may designate only the word “re-election” on their nomination papers and on the ballot.

So it shall read as follows:

Nomination papers for elected Town offices other than Town Meeting Representatives must be filed with the Board of Registrars forty-nine days prior to the date of the preliminary Town election and with the Town Clerk thirty-five days prior to the date of the preliminary Town election and shall be signed by not less than one hundred registered voters of the Town, increased by one-fifth thereof. Nomination papers for the office of Town Meeting Representative must be filed with the Board of Registrars forty-nine days prior to the Annual Town election and with the Town Clerk thirty-five days prior to the annual Town election. Incumbents seeking re-election may designate only the word “re-election” on their nomination papers and on the ballot.

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Cheryl A. Mooney, Town Clerk
December 23, 2009

[To make consistent with Mass General Laws]

ARTICLE 62 (ID 75) CHARTER CHANGE: Delete Preliminary elections

To see if the Town will vote to amend the Stoughton Town Charter, C8-2, by deleting §C8-2. Preliminary elections in its entirety, or take any other action relative thereto.

With the remaining sections in Article 8 renumbered in sequence, or take any other action relative thereto.

Current language:

§ C8-2. Preliminary elections.

Except for the election of Town Meeting Representatives, in the event that there are more than two candidates for each office to be filled, a preliminary election will be held twenty-eight days before the regular Town elections. The two candidates receiving the greatest number of votes will be eligible to run

for that office and will be placed on the ballot for Town officers at the regular election. No preliminary election will be required for Town Meeting Representatives.

Petitioner: Board of Selectmen
Requested by Lynne Jardin, Principal, representing Gibbons Elementary School Council
January 28 2010

ARTICLE 63 (ID 12) Amend Chapter 191 of the Stoughton Wetlands Protection By-law:

To see if the Town will vote to amend Chapter 191 of the Stoughton Wetlands Protection By-Law as follows:

Current language:

Chapter 191

WETLANDS PROTECTION

§ 191-1. Purpose.

The purpose of this chapter is to protect the wetlands, related water resources, and adjoining land areas in the Town of Stoughton by prior review and the control of activities deemed by the Stoughton Conservation Commission (hereinafter referred to as "Commission") likely to have a significant or cumulative effect upon wetland values, including but not limited to the following; public water supply, private water supply, ground water, flood control, erosion and sedimentation control, storm damage prevention, prevention of water pollution, fisheries, wildlife, wildlife habitat, recreation, and aesthetic values; these values are to be collectively known as the "wetland resource area values" protected by this chapter.

§ 191-2. Definitions.

A. The following definitions shall apply in the interpretation and implementation of this chapter:

ABUTTER The same as owner of land abutting the activity.

AREAS SUBJECT TO FLOODING Depressions or closed basins which serve as ponding areas for runoff, snowmelt, heavy precipitation, or high ground water which has risen above the ground surface, and areas which flood from a rise in a bordering waterway or water body.

AGRICULTURE Land with resource areas or the Buffer Zone presently and primarily used in producing or raising one or more of the following agricultural commodities for commercial purposes:

1. animals, including but not limited to livestock, poultry, and bees;
2. fruits, vegetables, berries, nuts, and other foods for human consumption;
3. feed, seed, forage, tobacco, flowers, sod, nursery or greenhouse products, and ornamental plants or shrubs; and
4. forest products under a planned program to improve the quality and quantity.

ALTER To change the condition of any Area Subject to Protection Under the By-law. Examples of alterations include, but are not limited to, the following:

- 1) the changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood retention areas;
- 2) the lowering of the water level or water table;
- 3) the destruction of vegetation;
- 4) the changing of water temperature, biochemical oxygen demand (BOD), and other physical, biological or chemical characteristics of the receiving water.

APPLICANT ANY person who files a Notice of Intent, or on whose behalf such a notice is filed.

BANK shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

BREEDING AREA Areas used by wildlife for courtship, mating, nesting, or other reproductive activity, and rearing of young.

BUFFER ZONE That are of land extending one hundred (100) feet horizontally outward from the boundary of any area in the By-law.

CERTIFICATE OF COMPLIANCE A written determination by the issuing authority that work or a portion thereof has been completed in accordance with an Order. It shall be made on Form 8 of CMR 10.99.

DETERMINATION OF APPLICABILITY: means written finding by a conservation commission or the department as to whether a site or the work proposed thereon is subject to the jurisdiction of the Act. It shall be made of Form 2 of 310 CMR 10.99

DETERMINATION OF SIGNIFICANCE means a written finding by a conservation commission. After a public hearing, or by the Department, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more of the interest identified in the Act. It shall be made as part of the Order, on Form 5 of 310 CMR 10.99.

NOTIFICATION OF NON-SIGNIFICANCE means a written finding by a Conservation Commission, after a public hearing, or by the Department, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any of the interests of the act. It shall be made on Form 6 of 310 CMR 10.99.

ISOLATED LAND SUBJECT TO FLOODING shall be any isolated depression without an inlet which at least once a year confines standing water to a volume of at least one quarter acre-foot of water with an average depth of at least six inches. The boundary is the perimeter of the largest observed or recorded volume of water confined in the basin.

NON-TRANSIENT MACRO-ORGANISMS include the following wetland plants (as defined in M.G.L. Chapter 131, section 40, or in regulations 310 CMR 10.00) and/or animals visible to the naked eye including but not limited to: Eubrachiopods, Isopods, Amphipods, Coleoptera, Trichoptera and Pisidiid clams.

NOTICE OF INTENT The written notice filed by any person intending to remove, fill, dredge or alter an Area Subject to Protection under the By-law. It shall be made on Form 3 or 4 of 310 CMR 10.99.

ORDER OF CONDITIONS The document issued by a conservation commission containing conditions which regulate or prohibit an activity. It shall be made on Form 5 of 310 CMR 10.99.

OWNER OF LAND ABUTTING THE ACTIVITY The owner of land sharing a common boundary or corner with the site of the proposed activity in any direction, including land located directly across a street, way, creek, river, stream, brook or canal.

PLANS Such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the issuing authority to describe the site an/or the work, to determine the applicability of M.G.L. C. 131, §40 or to determine the impact of the proposed work upon the interests identified Town of Stoughton NOI guidelines.

PRIVATE WATER SUPPLY Any source or volume of surface or ground water demonstrated to be in any private use or demonstrated to have a potential for private use.

PUBLIC WATER SUPPLY Any source or volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to M.G.L. C. 111, §160 by the Division of Water Supply of the Department, or demonstrated to have a potential for public use.

RARE SPECIES Those vertebrate and invertebrate animal species officially listed as endangered, threatened, or of special concerns by the Massachusetts Division of Fisheries and Wildlife under 321 CMR 8.00.

RESOURCE AREAS BORDERING WATER BODIES “bordering means touching” any: Bank, Flat, marsh, freshwater wetland, Beach, meadow Dune or swamp that borders on any estuary, creek, river, stream, pond, or lake, or that touches one of the above land areas that itself borders a water body, is a protectable area. (Areas subject to flooding are also protectable).

RIVERINE WETLAND – Wetland resource area abutting a river.

SEASONAL WETLAND Any areas subject to flooding which form temporary confined bodies of water during periods of high water table and high input from spring runoff or snowmelt or heavy precipitation, and support populations of non-transient macro-organisms or serve as breeding habitat for select species of amphibians.

SELECT SPECIES OF AMPHIBIANS Species of amphibians which depend on seasonal wetlands for breeding habitat, including: mole salamanders (*Ambystoma maculatum*, *A. jeffersonianum*, *A. laterale*, and *A. opacum*); four - toed salamanders (*Hemidactylium scutatum*); eastern spadefoot toads (*Scaphiopus holbrookii*); American and Fowler’s toads (*Bufo a. Americanus* and *B. Woodhousii fowleri*); spring peepers (*Hyla c. Crucifer*); gray treefrogs (*Hyla versicolor*); wood frogs (*Rana sylvatica*); and fairy shrimp (*Eubranchipus. sp.*).

STORM DAMAGE PREVENTION The prevention of damage caused by water from storms, including but not limited to, erosion and sedimentation, damage to vegetation, property or buildings or damage caused by flooding, water borne debris or water-born ice.

TEMPORARY CONFINED BODIES OF WATER Bodies of water with little or no flow that periodically become dry to such extent that they cannot support sustained fish populations.

TEMPORARY POND OR POOL A seasonal wetland.

VERNAL POOL shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

VERNAL POOL HABITAT Confined basin depression which, at least in most years, hold water for a minimum of two continuous months during the spring and/or summer, and which are free of adult fish populations, as well as the area within 100 feet of the mean annual boundaries of such depressions, to the extent that such habitat is within an Area Subject to Protection Under the Act as specified in the chapter 10.02(1). These areas are essential breeding habitat, and provide other extremely important wildlife habitat functions during non-breeding season as well, for a variety of amphibian species such as wood frog (Rana sylvatica) and the spotted salamander (Ambystoma maculatum), and are important habitat for other wildlife species.

- B. Except as otherwise provided in this chapter or in regulations of the Commission, the definitions of terms in this chapter shall be as set forth in the Wetlands Protection Act, G.L. Ch. 131, Sec.40, and Regulations, 310 CMR 10.00.

§ 191-3. Jurisdiction.

- A. Except as permitted by the Commission or as provided in this by-law, no person shall commence to remove, fill, dredge, build upon, degrade, or otherwise alter the following resource areas, or their buffer zones:

- 1) Any freshwater wetland, riverine wetland, marsh, wet meadow, bog or swamp, vernal pools;
- 2) Any bank or beach;
- 3) Any lake, pond, river, stream, whether intermittent or continuous, natural or manmade;
- 4) Any land under aforementioned waters;
- 5) Any land subject to flooding or inundation by ground water, surface water, storm water flowage;
- 6) Isolated wetlands including kettle holes;
- 7) Seasonal wetlands.

- B. Said resource areas shall be protected whether or not they border surface waters.

§ 191-4. Exceptions.

- A. The application and permit required by this chapter shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, sanitary sewers, storm sewers, provided that written notice has been given to the Commission at least forty eight (48) hours prior to the commencement of work, and provided that the work conforms to performance standards

and design specifications in regulations adopted by the Commission.

- B. The application and permit required by this chapter shall not be required for work performed for the normal maintenance or improvement of lands in agricultural use.
- C. The application and permit required by this chapter shall not apply to emergency projects necessary for the protection of public health and safety, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to the commencement of work or within twenty four (24) hour after commencement, provided that the Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and provided that within twenty one (21) days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this by-law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and subsequently order restoration and mitigation measures.
- D. The property located in the Stoughton Technology Park (formerly the North Stoughton Industrial Park) (the "Park") is subject to Final Orders of Conditions dated October 24, 1984, recorded with the Norfolk Registry of Deeds in Book 6533, Page 230; the Conservation Restriction dated September 26, 1984, recorded with said Deeds in Book 6533, Page 236, and the Declaration of Industrial Park Restrictions dated September 26, 1984, recorded with said Deeds in Book 6533, Page 247. In consideration of these existing controls, the application and permit required by this by-law shall not be required for any work performed within the Park. The Park contains approximately 272 +/- acres of land and is bounded by Lindelof Avenue (Route 139), Route 24, Page Street and the municipal boundaries with the Towns of Avon and Randolph.

§ 191-5. Requests for determination, applications for permits; fees.

- A. Any person desiring to know whether or not a proposed activity or an area is subject to this chapter may request in writing a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.
- B. The Commission in an appropriate case may accept as the request under this chapter the Request for Determination of Applicability (RFD) filed under the Wetlands Protection Act, MGL c. 131, §40.
- C. Written application shall be filed with the Commission to perform activities regulated by this chapter affecting resource areas protected by this chapter. The application shall include such information and plans deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this chapter.
- D. The Commission in an appropriate case may accept as the application and plans under this chapter the Notice of Intent (NOI) application and plans filed under the Wetlands Protection Act, MGL c. 131, §40.

- E. At the time of an application or request, the applicant shall pay a filing fee specified in regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, MGL c. 131, §40.
- F. Upon receipt of a NOI application or RFD, the Commission shall require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the consultant fee. The specific consultant services may include but are not limited to; resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law.

- (1) The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.
- (2) The Commission may require the payment of the consultant fee at any point in its deliberation prior to a final decision. The applicant shall pay the fee to be put into a consultant services account of the Commission, which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public hearings.
- (3) The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.
- (4) The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following fee schedule:

<u>Project Cost</u>	<u>Maximum Fee</u>
UP TO \$100,000	\$1,500
\$100,001 to \$500,000	\$2,500
\$500,001 to \$1,000,000	\$5,000
\$1,000,001 to \$1,500,000	\$7,500
\$1,500,001 to \$2,000,000	\$10,000

- a. Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged at an additional \$2,500 fee per increment.
- b. The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project applicable to those activities within resource areas protected by this chapter. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

- G. Filing fees and consultant fees collected pursuant to this chapter shall be administered pursuant to M.G.L. c.44, §53E and §53E1/2, respectively.
- H. The Commission may waive the filing fee and costs and expenses for application or request filed by a government agency.

§ 191-6. Public notice and hearings.

- A. An application or a request for determination shall be hand delivered or sent by certified mail to the Commission, eight (8) copies are required. A copy of all applications shall be given by the applicant to the Planning Board, the Zoning Board of Appeals, the Building Inspector and the Board of Health for comments prior to the public hearing. Any person filing a permit application or an RFD with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list from the assessors.
- B. “Abutter” is defined as (1) owners of land within 100 feet of the property lines, including being directly opposite on any public or private street or way, (2) directly abutting a lake, pond, stream, or river, or within five hundred (500) frontage feet of the boundaries of the subject property, (3) or in another municipality. With regard to Condominium or apartment units, abutter notification can be sent to the property manager. The notice to abutters shall have enclosed a copy of the permit application or request, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request. The property owner’s signature must be on the application.
- C. The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality. The fee for publishing the notice must be provided by the applicant to the Commission simultaneously with the submission of a permit application or RFD.
- D. The Commission in an appropriate case may combine its hearing under this chapter with the hearing conducted under the Wetlands Protection Act, MGL c. 131, §40 and Regulations 310 CMR 10.00.
- E. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant. The public hearing will not commence until the applicant provides the majority of the return receipts from the certified mail abutter notice to the Commission.
- F. The Commission shall issue a permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
- G. The Commission shall have the authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in Subsection A.

§ 191-7. Permits and conditions.

- A. If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this chapter, the Commission within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of the protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this chapter; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in the regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this chapter; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.
- C. Buffer zones are presumed important in the protection of those resource areas and their related wetland resource area values protected by this chapter because activities undertaken in close proximity to resource areas are presumed to have a high likelihood of adverse impact upon the resource areas and their related values either immediately or long term, as a consequence of construction and use, which can include, without limitation, erosion, siltation, loss of ground water recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetated cover within such buffer zone, unless the applicant rebuts said presumptions concerning protection of and impact upon resource areas with credible evidence to convince the Commission that said buffer zone may be disturbed or altered without harm to the values protected by this chapter.
- D. To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; if such avoidance is demonstrated by credible evidence submitted by an applicant not to be feasible an applicant shall be required to minimize wetlands alteration; and, where alteration is unavoidable, to provide full mitigation.
- E. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of the time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Failure to complete a project within the extension period shall require a new filing of a Notice of Intent. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.
- F. For good cause the Commission may revoke or modify a permit or determination issued under this chapter after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to this section and a public hearing.

- G. The Commission in an appropriate case may combine the permit or determination issued under the chapter with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act M.G.L. c. 131, §40 and Regulations, 10 CMR 10.00.
- H. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.
- I. The Commission shall after receiving a written request for a Certificate of Compliance and an as-built plan certified as necessary and appropriate in the Commission's discretion, by a Professional Engineer and/or a Professional Land Surveyor both licensed in the Commonwealth of Massachusetts, to be in substantial compliance with the plan approved under the order of conditions, inspect the resource area and buffer zone where any activity governed by a permit issued under this chapter was carried out, and, if such activity has been completed in accordance with said permit, the Commission shall, within twenty one (21) days after receiving such written request, issue a Certificate of Compliance evidencing such determination, which may in appropriate cases be combined with a Certificate of Compliance issued under the Wetlands Protection Act. A Certificate of Compliance may specify conditions in the permit which will continue to apply. The certificate of compliance shall be recorded in the same manner as a permit and proof of recording shall be provided by the applicant to the commission, as set forth herein.

§ 191-8. Regulations.

- A. After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this chapter. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter.
- B. At a minimum these regulations shall define key terms in this chapter not inconsistent with the chapter and procedures governing the amount and filing of fees.

§ 191-9. Security.

As part of a permit issued under this chapter, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder be secured wholly or in part by one or more of the methods described below:

- A. By deposit of money (certified check or cash) sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit. Any deposit of money received in accordance with this section shall be administered in accordance with M.G.L. c. 44, § 53E1/2.
- B. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

§ 191-10. Enforcement; violations and penalties.

- A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this chapter, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this chapter.
- B. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this chapter and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.
- C. The Commission shall have authority to enforce this chapter, its regulations, and permits issued thereunder by violation notices, enforcement orders and civil and criminal court actions. Any person who violates provisions of this chapter may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.
- D. Any person who violates any provision of this chapter, or regulations, permits, or enforcement orders issued thereunder, shall be punished by a fine as outlined in schedule below. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the chapter, regulations, permits, or administrative orders violated shall constitute a separate offense.
- E. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in M.G.L. Ch. 40, Sec.21D. When so enforcing, any violation of this chapter shall be punishable as follows:
 - 1) first offense: a warning
 - 2) second offense: a penalty of \$200.00.
 - 3) third offense: a penalty of \$300.00.
 - 4) each additional offense: a penalty of \$300.00.

The Building Inspector and the Stoughton police officers shall be the enforcing persons for the purpose of this chapter.

§ 191-11. Burden of proof.

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this chapter. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with such conditions, or as necessary to affect the purposes of this chapter.

§ 191-12. Appeals.

A decision of the Commission shall be reviewable in the Superior Court in accordance with M.G.L. c. 249, §4.

§ 191-13. Relation to the Wetlands Protection Act.

This chapter is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. c. 131, §40, and Regulations, 310 CMR 10.00, thereunder.

And substitute with the following language:

Chapter 191

WETLANDS PROTECTION

§ 191-1. Purpose

The purpose of this chapter is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Stoughton by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, fisheries, shellfisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, and recreation values, and also aesthetic values, deemed important to the community (collectively, the “resource area values protected by this chapter”).

This chapter is intended to utilize the Home Rule authority of this municipality so as to protect the resource areas under the Wetlands Protection Act (MGL c. 131 §40; the Act) to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and regulations there under (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant chapters of the Town of Stoughton.

~~The purpose of this by law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Stoughton by prior review and the control of activities deemed by the Stoughton Conservation Commission (hereinafter referred to as "Commission") likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public water supply, private water supply, ground water, flood control, erosion and sedimentation control, storm damage prevention, prevention of water pollution, fisheries, wildlife, wildlife habitat, recreation, and aesthetic values; these values are to be collectively known as the "wetland resource area values" protected by this chapter.~~

§ 191-2. Definitions.

A. The following definitions shall apply in the interpretation and implementation of this chapter:

ABUT - Touching.

ABUTTER - The same as “owner of land abutting the activity.”

AGRICULTURE - Land with resource areas or the Buffer Zone presently and primarily used in producing or raising one or more of the following agricultural commodities for commercial purposes:

1. Animals, including but not limited to livestock, poultry, and bees;
2. Fruits, vegetables, berries, nuts, and other foods for human consumption;
3. Feed, seed, forage, tobacco, flowers, sod, nursery or greenhouse products, and ornamental plants or shrubs; and
4. Forest products under a planned program to improve the quality and quantity.

ALTER - To change the condition of any Area Subject to Protection Under the chapter. Examples of alterations include, but are not limited to, the following:

- 1) The changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood retention areas;
- 2) The lowering **or raising** of the water level or water table;
- 3) The destruction of vegetation, **including cutting or trimming of trees and shrubs, or mowing, in a manner that will, in the reasonable judgment of the conservation commission, result in a long term or short term adverse impact to the resource area;**
- 4) The changing of water temperature, biochemical oxygen demand (BOD), and other physical, biological or chemical characteristics of the receiving water;
- 5) **The discharge of dredged or fill material, including but not limited to vegetative debris, soil, dirt, rocks, stone, solid waste, or pollution;**
- 6) **Activities which may cause or tend to contribute to pollution of any body of water or groundwater;**
- 7) **Driving of piles, or erection or repair of buildings, or structures of any kind unless the footprint of the building is altered at ground level;**
- 8) **Dumping, discharging, or filling any material which may degrade water quality;**
- 9) **Placing of material, or removal of material, which would alter elevation;**
- 10) **Placing of obstructions or objects; and**
- 11) **Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this chapter.**

APPLICANT - Any person who files a Notice of Intent, or on whose behalf such a notice is filed.

AREAS SUBJECT TO FLOODING - Depressions or closed basins which serve as ponding areas for runoff, snowmelt, heavy precipitation, or high ground water which has risen above the ground surface, and areas which flood from a rise in a bordering waterway or water body.

AREAS SUBJECT TO PROTECTION - Wetlands, including bordering and isolated wetlands, marshes, wet meadows, bogs, swamps, isolated and bordering lands subject to flooding, streams, rivers, creeks, brooks, vernal pools, kettle holes, springs, land under water, ponds, lakes, banks, bogs, buffer zones and Riverfront Areas.

BANK - Includes the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

BORDERING -Touching in some manner, at any point or along any length of boundary, and including any portion of a resource area subject to protection under the chapter.

BREEDING AREA - Areas used by wildlife for courtship, mating, nesting, or other reproductive activity, and rearing of young.

BUFFER ZONE - That area of land extending one hundred (100) feet horizontally outward from the boundary of any area **subject to protection** in the chapter.

CERTIFICATE OF COMPLIANCE - A written determination by the issuing authority that work or a portion thereof has been completed in accordance with an order. It shall be made on Form 8 of **310 CMR 10.99**.

DETERMINATION OF APPLICABILITY - A written finding by a conservation commission or the department as to whether a site or the work proposed thereon is subject to the jurisdiction of the **ACT**. It shall be made of Form 2 of 310 CMR 10.99

DETERMINATION OF SIGNIFICANCE - A written finding by a conservation commission. After a public hearing, or by the Department, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more of the interest identified in the **ACT**. It shall be made as part of the Order, on Form 5 of 310 CMR 10.99.

NOTIFICATION OF NON-SIGNIFICANCE - A written finding by a Conservation Commission, after a public hearing, or by the Department, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any of the interests of the **ACT**. It shall be made on Form 6 of 310 CMR 10.99.

ISOLATED LAND SUBJECT TO FLOODING shall be any isolated depression without an inlet which at least once a year confines standing water to a volume of at least one quarter acre-foot of water with an average depth of at least six inches. The boundary is the perimeter of the largest observed or recorded volume of water confined in the basin.

NONTRANSIENT MACRO-ORGANISMS - Includes the following wetland plants (as defined in **M.G.L. c. 131 §40**, or in regulations 310 CMR 10.00) and/or animals visible to the naked eye including but not limited to: Eubrachiopods, Isopods, Amphipods, Coleoptera, Trichoptera and Pisidiid clams.

NOTICE OF INTENT - The written notice filed by any person intending to remove, fill, dredge or alter an Area Subject to Protection under the By-law. It shall be made on Form 3 or 4 of 310 CMR 10.99.

ORDER OF CONDITIONS - The document issued by a conservation commission containing conditions which regulate or prohibit an activity. It shall be made on Form 5 of 310 CMR 10.99.

OWNER OF LAND ABUTTING THE ACTIVITY - The owner of land sharing a common boundary or corner with he site of the proposed activity in any direction, including land located directly across a street, way, creek, river, stream, brook or canal.

PLANS - Such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the issuing authority to describe the site an/or the work, to determine the applicability of **MGL c. 131 §40** or to determine the impact of the proposed work upon the interests identified Town of Stoughton NOI guidelines.

POND – As defined by **310 CMR 10.04** except that the size threshold shall be **5000 square feet**.

PRIVATE WATER SUPPLY - Any source or volume of surface or ground water demonstrated to be in

any private use or demonstrated to have a potential for private use.

PUBLIC WATER SUPPLY - Any source or volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to **MGL c. 111 §160** by the Division of Water Supply of the Department, or demonstrated to have a potential for public use.

RARE SPECIES - Those vertebrate and invertebrate animal species officially listed as endangered, threatened, or of special concerns by the Massachusetts Division of Fisheries and Wildlife under 321 CMR 8.00.

RESOURCE AREAS BORDERING WATER BODIES - ~~“bordering means touching”~~ Any bank, flat, marsh, freshwater wetland, beach, meadow, dune or swamp that borders on any estuary, creek, river, stream, pond, or lake, or that touches one of the above land areas that itself borders a water body, is a protectable area. (Areas subject to flooding are also protectable).

~~**RIVERINE WETLAND** means wetland resource area abutting a river.~~

RIVER - A body of water as is defined in the Massachusetts Rivers Protection Act (Acts of 1996, c. 258)

RIVERFRONT AREA - Defined in the Massachusetts River’s Protection Act (Acts of 1996, c. 258.)

SEASONAL WETLAND - Any areas subject to flooding which form temporary confined bodies of water during periods of high water table and high input from spring runoff or snowmelt or heavy precipitation, and support populations of non-transient macro-organisms or serve as breeding habitat for select species of amphibians.

SELECT SPECIES OF AMPHIBIANS - Species of amphibians which depend on seasonal wetlands for breeding habitat, including: mole salamanders (*Ambystome maculatum*, *A. jeffersonianum*, *A. laterale*, and *A. opacum*); four - toed salamanders (*Hemidactylum scutatum*); eastern spadefoot toads (*Scaphiopus holbrookii*); American and Fowler’s toads (*Bufo a. Amricanus* and *B. Woodhousii fowleri*); spring peepers (*Hyla c. Crucifer*); gray tree frogs (*Hyla versicolor*); wood frogs (*Rana sylvatica*); and fairy shrimp (*Eubranchipus. sp*).

STORM DAMAGE PREVENTION - The prevention of damage caused by water from storms, including but not limited to, erosion and sedimentation, damage to vegetation, property or buildings or damage caused by flooding, water borne debris or water-borne ice.

TEMPORARY CONFINED BODIES OF WATER - Bodies of water with little or no flow that periodically become dry to such extent that they cannot support sustained fish populations.

TEMPORARY POND OR POOL - A seasonal wetland.

VERNAL POOL - Includes a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

VERNAL POOL HABITAT - Confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which are free of adult fish

populations, as well as the area within 100 feet of the mean annual boundaries of such depressions, to the extent that such habitat is within an Area Subject to Protection under the Act **M.G.L. c. 131 §40, 310 CMR 10.02(1)** as specified in the Chapter § **191-2**. These areas are essential breeding habitats, and provide other extremely important wildlife habitat functions during non-breeding season as well, for a variety of amphibian species such as wood frog (*Rana sylvatica*) and the spotted salamander (*Ambystoma maculatum*), and are important habitat for other wildlife species. **Vernal pool habitat also includes the area within 200 feet of the mean annual boundaries of those vernal pools certified by the Natural Heritage and Endangered Species Program (NHESP), if such pools are contained within the estimated or priority habitats for rare species as mapped by NHESP.**

B. Except as otherwise provided in this chapter or in regulations of the Commission, the definitions of terms in this chapter shall be as set forth in the Wetlands Protection Act, **MGL c. 131 §40**, and Regulations, 310 CMR 10.00.

§ 191-3. Jurisdiction.

A. Except as permitted by the Commission or as provided in this by-law, no person shall commence to remove, fill, dredge, build upon, degrade, **discharge into**, or otherwise alter the following resource areas, ~~or their buffer zones~~:

- 1) Any freshwater wetland, ~~riverine wetland~~, marsh, wet meadow, **springs**, bog, ~~or~~ swamp, vernal pools, **reservoirs, lakes, ponds**;
- 2) Any bank or beach;
- 3) Any lake, pond, river, stream, whether intermittent or continuous, or natural, ~~manmade~~;
- 4) Any land under aforementioned waters;
- 5) Any land subject to flooding or inundation by ground water, surface water, storm water flowage;
- 6) Isolated wetlands including kettle holes;
- 7) Seasonal wetlands;
- 8) **Any lands within 100' of any of the aforementioned resource areas or any lands within 200' within any river;**
- 9) **Any lands within 200' of any certified vernal pool within estimated habitat or priority habitat for rare species as mapped by the Natural Heritage and Endangered Species Program.**

B. Said resource areas (**collectively “the resource areas protected by this chapter”**) shall be protected whether or not they border surface waters.

C. **The jurisdiction of this chapter shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquaculture uses as defined by the Wetlands Protection Act regulations, found at 310 CMR 10.04**

§ 191-4. Exceptions.

- A. The application and permit required by this by-law shall not be required for maintaining, repairing, or replacing, but not ~~substantially~~ changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, sanitary sewers, storm sewers, provided that written notice has been given to the Commission at least forty eight (48) hours prior to the commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- B. The application and permit required by this chapter shall not be required for work performed for the normal maintenance or improvement of lands in agricultural use.
- C. The application and permit required by this chapter shall not apply to emergency projects necessary for the protection of public health and safety, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to the commencement of work or within **twenty-four** (24) hours after commencement, provided that the Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and provided that within **twenty-one** (21) days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this by-law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and subsequently order restoration and mitigation measures.
- D. The property located in the Stoughton Technology Park (formerly the North Stoughton Industrial Park) (the "Park") is subject to Final Orders of Conditions dated October 24, 1984, recorded with the Norfolk Registry of Deeds in Book 6533, Page 230; the Conservation Restriction dated September 26, 1984, recorded with said Deeds in Book 6533, Page 236, and the Declaration of Industrial Park Restrictions dated September 26, 1984, recorded with said Deeds in Book 6533, Page 247. In consideration of these existing controls, the application and permit required by this by-law shall not be required for any work performed within the Park. The Park contains approximately 272 +/- acres of land and is bounded by Lindelof Avenue (Route 139), Route 24, Page Street and the municipal boundaries with the Towns of Avon and Randolph.
- E. **Other than stated in this chapter, the exceptions provided in the Wetlands Protection Act (MGL c. 131 §40) and regulations (310 CMR 10.00) shall not apply under this chapter.**

§ 191-5. Requests for determinations and applications for permits, fees.

- A. Any person desiring to know whether or not a proposed activity or an area is subject to this chapter may request in writing a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.
- B. The Commission in an appropriate case may accept as the request under this by-law the Request for Determination of Applicability (RFD) filed under the Wetlands Protection Act, MGL c. 131 §40.

- C. Written application shall be filed with the Commission to perform activities regulated by this by-law affecting resource areas protected by this chapter. The application shall include such information and plans deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this chapter.
- D. The Commission in an appropriate case may accept as the application and plans under this chapter the Notice of Intent (NOI) application and plans filed under the Wetlands Protection Act, MGL c. 131 §40.
- E. At the time of an application or request, the applicant shall pay a filing fee specified in regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, MGL c. 131 §40.
- F. Upon receipt of a NOI application or RFD, the Commission shall require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the “consultant fee.” The specific consultant services may include but are not limited to; resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law.
- 1) The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.
 - 2) The Commission may require the payment of the consultant fee at any point in its deliberation prior to a final decision. The applicant shall pay the fee to be put into a consultant services account of the Commission, which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public hearings.
 - 3) The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.
 - 4) The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following fee schedule:

<u>Project Cost</u>	<u>Maximum Fee</u>
UP TO \$100,000	\$1,500
\$100,001 to \$500,000	\$2,500
\$500,001 to \$1,000,000	\$5,000
\$1,000,001 to \$1,500,000	\$7,500
\$1,500,001 to \$2,000,000	\$10,000
UP TO \$50,000.00	\$1,500.00
\$50,000.01 to \$2,000,000.00	\$10,000.00

- a) Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged at an additional \$2,500 fee per increment.
 - b) The “project cost” means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project applicable to those activities within resource areas protected by this by-law. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the commission’s request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.
- G. Filing fees and consultant fees collected pursuant to this by law shall be administered pursuant to MGL c. 44 §53E and §53E1/2, respectively.
- H. The Commission may waive the filing fee and costs and expenses for an application or request filed by a government agency **or a non-profit organization.**
- I. **The Commission shall establish an escrow account for fees imposed to the applicant upon the selection of independent specialized consultant review by the Commission under MGL c. 44 §53 G (§53 G). In accordance with §53 G the applicant has the right for an administrative appeal to the Board of Selectmen. The grounds for the appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum qualifications in accordance with MGL 44 §53 G. This shall be for review of projects under the regulatory jurisdiction of Act, and the C.191, Stoughton Wetlands By-law. Any excess amount of funds collected and held in a § 53 G accounts shall be returned to the applicant when the review is completed.**

§ 191-6. Public notice and hearings.

- A. An application or a request for determination shall be hand delivered or sent by certified mail to the Commission, eight (8) copies are required. A copy of all applications shall be given by the applicant to the Planning Board, the Zoning Board of Appeals, the Building Inspector and the Board of Health for comments prior to the public hearing. Any person filing a permit application or an RFD with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all **owners of land abutting the subject property** at their mailing addresses shown on the most recent applicable tax list from the Assessors.
- B. Abutter is defined as (1) owners of land within 100 feet of the property lines, including being directly opposite on any public or private street or way, (2) directly abutting a **shoreline or bank along any common abutting** lake, pond, ~~stream~~, or river, or within five hundred (500) frontage feet along the **mean annual high water mark of any pond, lake or reservoir served by a shoreline or 500' downstream along a river along the** boundaries of the subject property, (3) or in another municipality **within 300 feet of the project.** With regard to apartment units and condominium units, **abutter notification will be sent to the property owner on record. In addition,** abutter notification can be sent to the property manager. The notice to abutters shall have enclosed a copy of the permit application or request, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting

a determination is other than the owner, the request, the notice of hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request. The property owner's signature must be on the application.

- C. The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, **no less than** five business days prior to the hearing, in a newspaper of general circulation in the municipality. The fee for publishing the notice must be provided by the applicant to the Commission simultaneously with the submission of a permit application or RFD.
- D. The Commission in an appropriate case may combine its hearing under this by-law with the hearing conducted under the Wetlands Protection Act, MGL c. 131 §40 and Regulations 310 CMR 10.00.
- E. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant. The public hearing will not commence until the applicant provides the majority of the return receipts from the certified mail abutter notice to the Commission.
- F. The Commission shall issue a permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
- G. The Commission shall have the authority to continue the hearing to a certain date announced at the hearing, for **good cause** stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in **§191-6A**.

§ 191-7. Permits and conditions.

- A. If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this chapter, the Commission within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of the protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this chapter; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in the regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this by-law; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.
- C. **In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a**

consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including without limitation strips of continuous, undisturbed vegetative cover, for the purposes of protecting the resource area.

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this chapter, has convinced the Commission by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this chapter. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

~~Buffer zones are presumed important in the protection of those resource areas and their related wetland resource area values protected by this chapter because activities undertaken in close proximity to resource areas are presumed to have a high likelihood of adverse impact upon the resource areas and their related values either immediately or long term, as a consequence of construction and use, which can include, without limitation, erosion, siltation, loss of ground water recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetated cover within such buffer zone, unless the applicant rebuts said presumptions concerning protection of and impact upon resource areas with credible evidence to convince the Commission that said buffer zone may be disturbed or altered without harm to the values protected by this chapter.~~

- D. ~~To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; if such avoidance is demonstrated by credible evidence submitted by an applicant not to be feasible an applicant shall be required to minimize wetlands alteration; and, where alteration is unavoidable, to provide full mitigation. To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.~~

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The

work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act Regulations (310 CMR 10.60).

The Commission shall presume that all areas meeting the definition of “vernal pools,” including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations.

- E. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of the time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Failure to complete a project within the extension period shall require a new filing of a Notice of Intent. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land. **An Applicant shall seek a Certificate of Compliance or otherwise report to the Commission at or prior to the expiration of the Applicant’s Order of Conditions. Failure to report at or prior to the expiration date may result in a fine as defined by our regulations.**
- F. For good cause the Commission may revoke or modify a permit or determination issued under this chapter after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to this section and a public hearing.
- G. The Commission in an appropriate case may combine the permit or determination issued under the chapter with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act, MGL c. 131 §40, and Regulations, 10 CMR 10.00.
- H. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.
- I. The Commission shall, after receiving a written request for a Certificate of Compliance and an as-built plan certified as necessary and appropriate in the Commissions discretion, by a **registered** professional engineer and/or a **registered** professional land surveyor both licensed in the Commonwealth of Massachusetts, to be in substantial compliance with the plan approved under the order of conditions, inspect the resource area and buffer zone where any activity governed by a permit issued under this by-law was carried out, and, if such activity has been completed in accordance with said permit, the Commission shall, within **twenty-one** (21) days after receiving such written request, issue a Certificate of Compliance evidencing such determination, which may in appropriate cases be combined with a Certificate of Compliance issued under the Wetlands Protection Act. A Certificate of Compliance may specify conditions in the permit which will continue to apply. The Certificate of Compliance shall be recorded in the same manner as a permit and proof of recording shall be provided by the applicant to the Commission, as set forth herein. **Said letter and plan from the Registered Professional**

Engineer and/or the Registered Professional Surveyor shall clearly delineate any and all deviations from the approved plan.

- J. **Any person, entity, or successors in interest, granted the authority to work within any resource area as defined by this By-law shall be bound to assure that said work will be completed in a manner that will ensure that resource area and associated buffer zones will be protected and that the work performed will function in the manner intended. If after completion of the work, or anytime thereafter, the work does not perform as intended to protect the wetland, or otherwise serves to harm the resource area, the Applicant or Property Owner shall be obligated, at the request of the Conservation Commission, to make whatever repairs, alterations, or modifications necessary to protect the wetland resource area, and associated buffer zones.**

§ 191-8 Regulations.

- A. After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this chapter. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter.
- B. At a minimum these regulations shall define key terms in this chapter not inconsistent with the chapter and procedures governing the amount and filing of fees.

§ 191-9. Security.

As part of a permit issued under this chapter, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder be secured wholly or in part by one or more of the methods described below:

- A. By deposit of money (certified check or cash) sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit. Any deposit of money received in accordance with this section shall be administered in accordance with **MGL c. 44 §53E1/2**.
- B. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

§ 191-10. Enforcement; violations and penalties.

- A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this chapter, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this chapter.
- B. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this chapter and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

- C. The Commission shall have authority to enforce this chapter, its regulations, and permits issued thereunder by violation notices, enforcement orders and civil and criminal court actions. Any person who violates provisions of this chapter may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.
- D. Any person who violates any provision of this chapter, or regulations, permits, or enforcement orders issued thereunder, shall be punished by a fine, **at the discretion of the board**, as outlined ~~in schedule~~ below. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the chapter, regulations, permits, or administrative orders violated shall constitute a separate offense.
- E. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in M.G.L. c. 40, §21D. When so enforcing, any violation of this chapter shall be punishable as follows:
 - 1) First offense: ~~A warning~~ **a penalty of \$100.00.**
 - 2) Second offense: a penalty of \$200.00.
 - 3) Third offense: a penalty of \$300.00
 - 4) Each additional offense: a penalty of \$300.00.

The **Environmental Affairs Officer**, Building Inspector and the Stoughton police officers shall be the enforcing persons for the purpose of this chapter.

§ 191-11. Burden of proof.

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this chapter. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with such conditions, or as necessary to affect the purposes of this chapter.

§ 191-12. Appeals.

A decision of the Commission shall be reviewable in **a court of competent jurisdiction** ~~Superior Court~~ in accordance with **MGL c. 249 §4.**

§ 191-13. Relation to the Wetlands Protection Act.

This chapter is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, MGL c. 131 §40, and Regulations, 310 CMR 10.00, thereunder.

§ 191-14. Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or

provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

Petitioner: Board of Selectmen
Requested by Conservation Commission
James Conlon, Environmental Affairs Officer
December 29, 2009

ARTICLE 64 (ID 14) Amend Chapter 59 Alcoholic Beverages

To see if the town will vote to amend the code of the Town of Stoughton:

Chapter 59, Alcoholic Beverages, Article I, Consumption in Public to include application to **ALCOHOLIC BEVERAGE AND PUBLIC CONSUMPTION of MARIJUANA or TETRAHYDROCANNABINOL**, as described below: Changes underlined

Section 1. To change the title from:

“Chapter 59, ALCOHOL BEVERAGES” to:

“Chapter 59, ALCOHOLIC BEVERAGES AND PUBLIC CONSUMPTION OF MARIJUANA or TETRAHYDROCANNABINOL”

Section 2. Insert New; ARTICLE III Chapter 59-6, 59-7, and 59-8

59-6 Public Consumption of Marijuana or Tetrahydrocannabinol

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school building, school grounds, cemetery, parking lot or any area owned by or under the control of the Town; or in or upon vehicle, any bus or other passenger conveyance operated by a common carrier, or in any place to which the public has a right of access as invitees or licensees.

59-7 Enforcement of Violations

This bylaw may be enforced through any lawful means in law or in equity including enforcement by a noncriminal disposition, pursuant to G.L. c. 40 section 21D, by the Police department. The fine for violations of this bylaw shall be Three Hundred Dollars (\$300) for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under G.L. 94C, section 32L

59-8 Evidence Marijuana or Tetrahydrocannabinol

Any marijuana or tetrahydrocannabinol burned, smoked, ingested or otherwise used or consumed in violation of this bylaw shall be seized, logged as evidence, and destroyed consistent with Stoughton Police Department Policy and G.L. c. 94C section 47A, or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Thomas Murphy, Acting Chief of Police
December 22, 2009

ARTICLE 65 (ID 20) By Law Change

To see if the Town will vote to replace **FEES in Chapter § 96-1 and § 96-2 of Code of the Town of Stoughton.**

Current language:

§ 96-1 Town Clerk fees.

§ 96-2 Sealing of weights and measures fees

[HISTORY: Adopted by the Annual Town Meeting of the Town of Stoughton 4-27-1981, Art. 46, approved 9-22-1981 (Ch. 50 of the 1983 Code). Amendments noted where applicable.]

§ 96-1. Town Clerk fees. [Amended 5-9-1989 ATM, Art. 48]

As allowed under MGL c. 262, § 34, the fees of the Town Clerk shall be as follows:

Service	Fee
Filing and indexing assignment for the benefit of creditor	\$10
Entering an amendment of a record of the birth of an illegitimate child subsequently legitimized	\$10
Correcting errors in a record of birth	\$10
Furnishing a certificate of a birth	\$5
Furnishing an abstract copy of a record of birth	\$2
Entering a delayed record of birth	\$10
Filing a certificate of a person conducting a business under any title other than his real name	\$10
Filing by a person conducting a business under any title other than his real name of a statement of change of his residence, or of his discontinuance, retirement or withdrawal from such business	\$10
Furnishing a certified copy of a certificate of a person conducting a business under any title other than his real name or a statement by such person of his discontinuance, retirement or withdrawal from such business	\$5
Recording the name and address and the date and number of the certificate issued to a person registered for the practice of podiatry in the Commonwealth	\$20
Correcting errors in a record of death	\$10
Furnishing a certificate of death	\$5
Furnishing an abstract copy of a record of death	\$2
Entering a notice of intention of marriage and issuing certificates thereof from the Code of the Town of Stoughton.	\$15
Entering a certificate of marriage filed by persons married out of the Commonwealth	\$5
Issuing a certificate of marriage	\$5
Furnishing an abstract copy of a record of marriage	\$5
Correcting errors in a record of marriage	\$10
Recording power of attorney	\$10
Recording a certificate of registration granted to a person to engage in the practice of optometry, or issuing a certified copy thereof	\$20
Recording the name of the owner of a certificate of registration as a physician or osteopath in the Commonwealth	\$20

Recording an order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in the number of wires and cables or attachments under the provisions of MGL c. 166, § 22	\$25 flat rate (\$10 additional for each street or way included in such order)
Examining records or papers relating to birth, marriage or deaths upon the application of any person	The actual expense thereof, but not Less than \$5
Copying any manuscript or record pertaining to a birth, marriage or death	\$5 per page
Receiving and filing of a complete inventory of all items to be included in a closing out sale, etc.	\$10 first page, \$10 each additional Page
Filing a copy of a written instrument or declaration of trust by the trustees of an association or trust, or any amendment thereof as provided by MGL c. 182, § 2	\$20
Recording a deed or lot or plot in a public burial place or cemetery	\$10
Recording any other documents:	First page; \$10; Each additional Page: \$2

§ 96-2. Sealing of weights and measures fees. [Added 4-26-1982 ATM, Art. 40, approved 9-13-1982]

Sealing of weights and measures fees shall be charged as follows:

Item	Fee
Scales	
Capacity over 10,000 pounds	\$50
Capacity of 5,000 to 10,000 pounds	\$30
Capacity of 1,000 to 5,000 pounds	\$20
Capacity of 100 to 1,000 pounds	\$10
Scales/Balances	
10 to 100 pounds	\$6
Under 10 pounds	\$5
Liquid capacity measure of capacity of more than one gallon and measures on pumps	\$2
Liquid measuring meter, diameter ½ inch to one inch	\$5
Liquid measuring meter, diameter over one inch:	
Vehicle tank pump	\$16
Vehicle tank gravity	\$20
Bulk storage	\$40
Bulk storage with certified prover	\$20
Taximeter	\$8
Device to determine linear or area	\$5
Milk bottle or jars, per gross	\$8
Vehicle tanks used in sale of commodities by liquid measure, per 100 gallons	\$5
Separate tanks, same vehicle, each	\$5
All weights and other measures	\$1

and substitute with:

Service	Fee
Entering an amendment of a record of the birth of an illegitimate child subsequently legitimized	\$25

Correcting errors in a record of birth	\$25
Furnishing a certificate of a birth	\$10
Entering a delayed record of birth	\$10
Filing a certificate of a person conducting a business under any title other than his real name	\$50
Filing by a person conducting a business under any title other than his real name of a statement of change of his residence, or of his discontinuance, retirement or withdrawal from such business	\$25
Furnishing a certified copy of a certificate of a person conducting a business under any title other than his real name or a statement by such person of his discontinuance, retirement or withdrawal from such business	\$5
Recording the name and address and the date and number of the certificate issued to a person registered for the practice of podiatry in the Commonwealth	\$20
Correcting errors in a record of death	\$25
Furnishing a certificate of death	\$10
Entering a notice of intention of marriage and issuing certificates thereof from the Code of the Town of Stoughton.	\$40
Entering a certificate of marriage filed by persons married out of the Commonwealth	\$25
Issuing a certificate of marriage	\$10
Correcting errors in a record of marriage	\$10
Recording power of attorney	\$10
Recording a certificate of registration granted to a person to engage in the practice of optometry, or issuing a certified copy thereof	\$20
Recording the name of the owner of a certificate of registration as a physician or osteopath in the Commonwealth	\$20
Recording an order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in the number of wires and cables or attachments under the provisions of MGL c. 166, § 22	\$25 flat rate (\$10 additional for each street or way included in such order)
Examining records or papers relating to birth, marriage or deaths upon the application of any person	The actual expense thereof, but not Less than \$10
Copying any manuscript or record pertaining to a birth, marriage or death	\$5 per page
Receiving and filing of a complete inventory of all items to be included in a closing out sale, etc.	\$10 first page, \$10 each additional Page
Filing a copy of a written instrument or declaration of trust by the trustees of an association or trust, or any amendment thereof as provided by MGL c. 182, § 2	\$20

§ 96-2. Sealing of weights and measures fees.

Sealing of weights and measures fees shall be charged as follows:

Item	Fee
Scales	
Capacity over 10,000 pounds	\$125
Capacity of 5,000 to 10,000 pounds	\$125
Capacity of 1,000 to 5,000 pounds	\$125
Capacity of 100 to 1,000 pounds	\$40
Scales/Balances	
10 to 100 pounds	\$20

Under 10 pounds	\$20
Liquid capacity measure of capacity of more than one gallon and measures on pumps	\$2
Liquid measuring meter, diameter ½ inch to one inch	\$5
Liquid measuring meter, diameter over one inch:	
Vehicle tank pump	\$16
Taximeter	\$25
Device to determine linear or area	\$5
Milk bottle or jars, per gross	\$8
Vehicle tanks used in sale of commodities by liquid measure, per 100 gallons	\$5
Separate tanks, same vehicle, each	\$5
All weights and other measures	\$1

Petitioner: Board of Selectmen
Requested by Cheryl A. Mooney, Town Clerk
December 23, 2009

[Revised Town Clerk fees were approved by the Board of Selectmen in November 2001 and Revised Sealing of Weights and Measures fees were approved by the Board of Selectmen in June 2009.]

ARTICLE 66 (ID 13) Recodification of Site Plan Review

To see if the Town will vote to accept Article XIV, the Site Plan Review By-law, adopted by the Annual Town Meeting, June 23, 2004 as re-codified and re-captioned by General Code Publishers in 2005 which is printed herewith in its entirety and as indicated by the following deletions (indicated in ~~strickethrough~~ lettering) and insertions (indicated in underlined lettering).

~~Section 1~~ Article XIV
Site Plan Review

~~Purpose of Site Plan Approval~~

§ 200-82. Purpose.

The purpose of Site Plan Approval is to protect the health, safety, convenience, and welfare of the inhabitants of the Town of Stoughton by providing a comprehensive review of the land and development plans submitted to the Town for approval to ensure that the following conditions have been met:

- A.~~(a)~~ The location of buildings, uses and other site development are properly and legally located on a site as prescribed by the ~~current~~ Zoning By-Law.

- B.~~(b)~~ Adjacent properties are protected from nuisance caused by noise, traffic, noxious or harmful fumes and glare of lights.

- C.~~(c)~~ Significant natural features on a site are preserved as much as possible (i.e. hills, water bodies, wetlands, trees, tree groves, wooded areas, rock outcrops, native plants, wildlife habitats and other areas of aesthetic and ecological interest).

- D.~~(d)~~ Adequate facilities for off street parking and loading , drainage, snow removal, fire protection and methods of solid waste disposal are provided on site.

~~E.(e)~~ Pedestrian ways, access driveways, loading areas and parking facilities are properly designed and operated for public convenience, universal accessibility and public safety.

Section 2

§ 200-83. Projects Requiring Site Plan Approval.

~~2.1. — Jurisdiction of Site Plan Review~~—All buildings, other than single-family and two-family residences and structures accessory thereto, which are to be constructed, removed and reconstructed or demolished and reconstructed, or enlarged, which enlargement is equal to or greater than the percentage of the total building gross square footage listed in Table 1 or 5,000 square feet, whichever is less, shall be subject to Site Plan Approval by the Planning Board. In addition, any change in the use, other than a single or two family, to a use which has an increased requirement for parking as defined by this Bylaw, or an increase in impervious surface, other than building footprint, shall also be subject to Site Plan Approval.

Table 1	
Size of Building Footprint	% of Increase Requiring Site Plan Approval
Under 1,000 gsf.	40%
1,000 – 4,999 gsf	30%
5,000 – 19,999 gsf.	20%
20,000 – 50,000 gsf.	10%
Over 50,000 gsf.	5%

Note:g.s.f. = gross square footage of the building. G.s.f. shall be calculated using the outside dimension of the building footprint times the number of floors.

Section 3

§ 200-84. Site Plan Approval Procedure.

~~A.3.1.~~ Recommended Pre-Filing Procedure. Prior to filing a Site Plan Application, the applicant is encouraged to request, in writing, to schedule a meeting to review the proposed site plan with the Engineering and Building Departments. The purpose of this recommended pre-filing procedure is to review with the applicant the requirements and criteria for site plan approval and address questions in order to give the applicant advice and comments prior to submitting a Site Plan Application and thus avoid unnecessary time and costs to the applicant due to unforeseen problems and issues with a submitted site plan.

~~B.3.2.~~ Application Procedure.

(1) At the time of filing, the applicant must submit twelve (12) copies of a completed Site Plan Application (~~Appendix A~~) and twelve (12) copies of the Site Plan, conforming to all requirements listed in this By-Law, along with any pre-filing comments received, to the Planning Board, in care of the Engineering Department. Additionally, a copy of the Site Plan Application (without plans) shall be filed with the Town Clerk.

(2) The Site Plan Application and plans will be ~~date stamped by the Engineering Department and~~ forwarded to the following departments for comment:

- (a) Building Department
- (b) Public Works Department

- (c) Board of Health ~~Department~~
- (d) Conservation Commission
- (e) Fire Department
- (f) Police Department
- (g) Engineering Department

(3) Each department shall make every effort to have all comments submitted to the Planning Board within thirty (30) days of receipt of a Site Plan Approval Application. These comments shall be available for review at the Engineering Department prior to the public hearing.

C.3.3. Contents of Application. An application for Site Plan Approval shall also be accompanied by the following:

- (1a) A list of names and addresses of all property owners of record who share a common property line with any portion of the subject property, and abutters to the abutters within three hundred feet (300')
- (2b) An itemized list of all applicable permits required for the subject site prior to the issuance of a building permit, and any approvals, variances and applications applied for and obtained for the project and property, including, as may be applicable, an application for municipal sewer connection, application for construction of an individual sewerage disposal system, application for municipal water connection, or application for well permit.
- (3e) If a variance or a special permit is required to be issued by the Zoning Board of Appeals for a project, it shall be obtained prior to application for Site Plan Approval.
- (4d) Written permission from the owner of the property to apply for Site Plan Approval, if the applicant is not the owner.
- (5e) For projects proposing demolition of an existing structure, a written finding by the Stoughton Historical Commission that the building or structure is not historically significant.

D.3.4. Public Notice. No less than seven (7) days prior to the date of the public hearing, the Applicant shall advertise the public hearing in a newspaper of local circulation, and shall send written notice, by first class mail, to all abutters within three hundred feet (300') of the subject property. Legal advertisement and all required postage shall be paid by Applicant. The legal advertisement and abutter notification shall include, at a minimum, the following information:

- (1a) The name and, if applicable, the business name and address of the applicant.
- (2b) The street address and the assessor's map and lot number of the property as specified on the Site Plan Application on which construction or expansion is planned.
- (3e) A brief description of the type of construction or expansion planned.
- (4d) The designated Town office where the Site Plan Application can be reviewed.
- (5e) The date, time and place of the public hearing.

E.3.5. Public Hearing. A public hearing on the ~~S~~site ~~P~~plan ~~A~~application shall be scheduled within forty-five (45) days of filing. Failure of the Planning Board to hold a public hearing within this forty-

five (45) days shall be deemed as constructive approval, upon which the Town Clerk shall issue a certificate to this effect and a notation on the Applicant's Site Plans.

F.3.6. Planning Board Action. The Planning Board shall take final action on the Site Plan Application within thirty (30) days of the close of the public hearing. Planning Board action shall be by vote of a majority of the members, or majority of a voting quorum, and shall consist of any one of the following:

- (1a) Approval, if the Site Plan meets the requirements of this By-Law;
- (2b) Approval with conditions, if the Site Plan would meet the requirements of this By-Law upon satisfaction of certain conditions; or
- (3e) Disapproval, if the Site Plan does not meet the requirements of this By-Law.

G.3.6.1. Record of Vote. A record of the Planning Board's action shall be ~~written in triplicate on a Record of Vote form (Appendix B), and filed with the Planning Board, Building Department and Town Clerk, respectively~~ with copies filed with the Building Department and Engineering Department.

H.3.6.2. Endorsement Upon Approval. In addition to the written Record of Vote, the Planning Board approval, or approval with conditions, shall be indicated by endorsement on the Site Plan by a majority of the Planning Board, with a reference to any specific conditions which may be contained in the written Record of Vote. Once approved, one (1) copy of the approved Site Plan, signed by the Planning Board, or their Authorized representative, shall be forwarded to the Building Inspector and Engineering Department within five (5) days of final Planning Board action.

I.3.6.3. Constructive Approval. Failure of the Planning Board to take final action within the prescribed thirty (30) day period shall be deemed as approval, upon which the Town Clerk shall issue a certificate to this effect and a notation on the Applicant's Site Plans. For the purposes of this By-Law, "final action" shall be construed to mean completion of every act required of the Planning Board under this By-Law.

J.3.6.4. Disapproval for Failure to Meet Filing Requirements. The Planning Board may, in its discretion, record a vote of disapproval of a Site Plan if the Applicant has failed to meet any of the requirements of filing set forth in this By-Law.

K.3.7. Certificate of Occupancy. No occupancy permits shall be issued for any building or structure, or portion(s) thereof, until:

- (1a) ~~The~~ Building Inspector receives certification from a registered architect, engineer or land surveyor, that all construction (including utilities) has been done in accordance with the approved site plan (not required for site plans for structures less than 5,000 sq. ft.); and
- (2b) ~~The~~ Building Inspector and Engineering Department verifies that all conditions of the approved site plan have been met.

L.3.8. Security for Incomplete Work.

- (1) Notwithstanding the requirements of ~~§200-84.K, Section 4.7 above~~, at the option of the Applicant, an occupancy permit may be issued if the only incomplete work shown on the site plan is exterior, cosmetic or landscaping, ~~and~~ and if surety, the amount to be set by the

Planning Board at a regular meeting, is posted to ensure that the incomplete work is completed within a reasonable time. The Planning Board shall establish a deadline for completion of not more than one (1) year from posting of security. The Planning Board may, at its discretion, allow surety to be posted for site work in addition to landscaping if an unusual or unexpected event prevents the applicant from completing the site work. This allowance is subject to the review by the Planning Board by a site inspection to insure the safety and health for those who occupy the structure and use the site.

- (2) In no event may surety be used for incomplete stormwater management areas or wetlands replication that may be required by the Conservation Commission.

Section 4

§ 200-85. Contents of Site Plan and Application

~~A.4.1~~ Contents of Site Plan. The Site Plan shall contain the following:

- ~~(1)a.~~ Locus map, at a scale of 1"=600' or suitable scale to accurately locate the site in Town, oriented on the plan in the same way as the large scale plan
- ~~(2)b.~~ The location, width, status (public or private), and name of all streets within 100' of the project.
- ~~(3)c.~~ On-site and abutting lot lines. On site lot lines shall be described by bearing and distance. Abutting lot lines shall be shown in a general way.
- ~~(4)d.~~ Zoning District lines, including Flood Plains, Wetland Protection Districts and wellhead protection zones I and II (if applicable).
- ~~(5)e.~~ A signature block including Five (5) signature lines and a date line for Planning Board approval.
- ~~(6)f.~~ Existing and proposed surveyed topography contour lines at one (1) or two (2) foot intervals. For projects with structures in excess of 30,000 gsf, see §200-85.C~~Section 4.3.~~
- ~~(7)g.~~ Any streams, brooks or wetland resource area boundaries within 100' of the property lines. Wetland resource areas shall be as defined in the most recent version of the Stoughton Wetland Protection By-Law.
- ~~(8)h.~~ Information on the location, size and type and number of existing and proposed landscape features. A Landscaping Plan, or acceptable alternative, containing planting locations, species/common name, and size/caliper shall be included as well.
- ~~(9)i.~~ Information on the location, size and capacity of existing and proposed on-site and abutting utilities, (water, sewer, drainage, natural gas, electrical cable, etc.) including utilities in abutting side streets, if applicable.
- ~~(10)j.~~ Detailed locations and dimensions of all existing and proposed buildings and uses on site and on abutting properties, including sill elevations, overhangs and exterior details relating to the building footprint. All existing and proposed setbacks from property lines. Any minimum, or below minimum, setback distances shall be clearly noted as such on the plan.

- ~~(11)~~ Information on directional on-site signage shall be submitted.
- ~~(12)~~ Elevation and facade treatment plans of all proposed structures. Color renderings are encouraged.
- ~~(13)~~ Information on the location, size and type of parking, loading, storage and service areas. A parking calculation schedule noting existing, required and proposed spaces for the entire site shall be provided.
- ~~(14)~~ Lighting specifications and locations of each light, with explanation of lighting needs at the site. For projects with structures in excess of 30,000 square feet, a manufacturer's point to point printout indicating horizontal foot candle levels at grade with proposed property layout shall also be submitted.
- ~~(15)~~ Details and specifications (if applicable) for proposed site amenities, including, but not limited to fences, recreation facilities, walls or other barrier materials; and special paving materials.
- ~~(16)~~ If any waivers are sought from the Planning Board from ~~§200-85 this Section of the By Law,~~ they shall be clearly listed with their descriptions on the drawing. If any waivers are requested ~~from Zoning By Laws,~~ they shall be listed on a separate sheet and submitted as part of the site plan submission material.
- ~~(17)~~ Proposed construction schedule.
- ~~(18)~~ Limit of Work delineation.
- ~~(19)~~ Name and address of Record Owner/Applicant. Cover letter from applicant describing project in detail.

~~B.4.2~~ B.4.2 Size of Plans. Site Plans shall be preferably either 24" x 36" or 30" x 42". Larger plans may be submitted, at the discretion of the Engineering Department, to prevent match line drawings. The scale shall be a minimum of 1" = 40', except for elevation views and floor plans which shall be at a scale of 1/8" = 1' or 1/4" = 1'. Site Plans shall be legible and include legends. For projects with structures in excess of 30,000 square feet, the proposed layout, planting, utility and grading for the site shall be separated into their own respective sheets.

~~C.4.3~~ C.4.3 Requirements for Structures Greater than 30,000 GSF gross square feet. For projects with structures in excess of 30,000 ~~gsf~~ gross square feet, the Applicant shall submit traffic impact and drainage design reports, visual impact assessment and proposed grading plans.

~~(1)4.3.1~~ (1)4.3.1 Traffic Report. Traffic Reports shall include the following for the study area:

- (a) Internal traffic flow analyses,
- (b) Existing average daily traffic and peak hour levels,
- (c) Analyses of average daily traffic and peak hour levels resulting from the project.

- (d) An analysis of existing and resulting intersection levels of service (LOS). (Please refer to the most current edition of the Manual of the Institute of Transportation Engineers for the definition of level of service.)
- (e) Directional vehicular flows resulting from the proposed project.
- (f) Proposed methods to mitigate the estimated traffic impact.
- (g) Identification of any pedestrian crossing issues.
- (h) The methodology and sources used to derive existing data and estimations.

~~(2)~~4.3.2 Visual Impact Report. The Visual Impact Assessment shall be prepared by a registered Landscape Architect and shall include:

- (a) Evaluation of the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of character and intensity of use (e.g. scale, materials, color, odor, door and window size and locations, setbacks, roof and cornice lines, and other major design elements);
- (b) An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes; and
- (c) A site plan rendering.

~~(3)~~4.3.3. Stormwater Management Plan. The contents of the stormwater management plan shall contain sufficient information for the Planning Board to evaluate the hydrological and hydrological-dependent characteristics of the land to be developed, the potential and predicted impacts of land development on the local hydrology, and the effectiveness and acceptability of all measures proposed by the applicant for reducing adverse impacts. Summary data shall be provided in terms understandable to the layperson.

- (a) The stormwater management plan shall be prepared in compliance with the Stormwater Management Policy of the Department of Environmental Management and with the requirements of the Environmental Protection Agency's Phase II National Pollutant Discharge Elimination System (NPDES) regulations. Stormwater Management Plan shall include and Operations and Maintenance (O&M) Manual to be performed by the property owner or their agent detailing the responsibilities of the system operator to ensure proper performance of the drainage system.
- (b) The following drawings shall be submitted for the Stormwater Management Plan, which shall constitute the Applicants grading plan required by §200-85.A.(6)~~Section 4.1(f)~~:

~~[1](a)~~ Watershed maps to include:

- ~~[a](i)~~ All drainage divides within the sub-watershed for existing and developed conditions.

~~[b](ii)~~ The flow lines of surface runoff entering, passing through, and leaving the site under existing and developed conditions.

~~[2](b)~~ A base map describing the existing hydrological conditions of the site and of receiving or discharging watercourses, water bodies and wetlands. Existing topography shall be described in one foot or two foot contour intervals, depending on how much detail is required to review drainage impacts of the proposed project.

[3] ~~A~~all changes in topography, described in full contour detail at two ~~(2)~~ foot intervals.

[4] ~~A~~all areas where any vegetation is to be cleared or otherwise altered.

[5] ~~A~~all areas to be covered with an impervious surface and a description of the surfacing material to be utilized.

[6] ~~A~~all changes in natural (predevelopment) infiltration, surface runoff paths, and annual high groundwater table levels.

~~[7](e)~~ The proposed system of stormwater drainage including the location and design of roadway and individual lot sub-drains, construction details for drainage structures including manholes, headwalls, detention basins, outlet and inlet control structures.

~~(4)4.4~~ Certification of ~~P~~plans. The site plan must be signed and stamped by a professional deemed appropriate by the Planning Board. This may include, but not limited to a registered Civil Engineer, Surveyor, Landscape Architect, or Architect. For projects with structures in excess of 30,000 ~~gsf~~ gross floor area, the landscape plan, and visual impact studies shall be prepared and stamped by a registered landscape architect, or other professional as approved by the Planning Board. For projects with structures in excess of 30,000 ~~GSF~~ gross floor area, the elevations and facade treatment drawings shall be prepared by a licensed architect.

~~(5)4.5~~ Waiver of ~~F~~iling ~~R~~requirements. Upon request of the Applicant, the Planning Board may, at its discretion, waive any of the requirements, or portions thereof, of ~~§200-85~~ this Section 5. Action by the Planning Board granting either approval or approval with conditions, shall be sufficient evidence of an affirmative waiver by the Board of any of the filing requirements not fulfilled by the Applicant. Waivers of ~~F~~iling ~~R~~requirements shall be explicitly requested by the Applicant in writing, and expressly granted by the Planning Board. Requirements of this By-Law may not be waived except as properly voted by the Planning Board.

~~Section 5~~

~~§ 200-86. Standards for Approval.~~

In reviewing the site plan as part of the approval process, the Planning Board shall ascertain that the site plan meets the following requirements:

~~5.1A. Parking S~~spaces.

- (a1) The number and dimensions of parking spaces shown on the Site Plan conforms to the most current requirements of the Chapter 200, Zoning By Law.
- (b2) The dimensions of all handicapped accessible parking spaces shall conform to the Rules and Regulations of the Architectural Access Board 521 CMR, and the Americans with Disabilities Act.
- (b3) Parking spaces must be clearly marked by painted lines and pavement markings and signs shall be installed identifying compact spaces and accessible parking spaces, in conformance with the Rules and Regulations of the Architectural Access Board 521 CMR, and the Americans with Disabilities Act.

5.2B. Parking Lot Design. Parking lots shall be designed or re-developed to perform the following functions:

- (a1) To promote inbound flow within the lot, so as not to create conflicting movements;
- (b2) To promote inbound movement for less backup onto the streets fronting the property, and to avoid conflicts with the inbound flow of cars;
- (e3) To locate the project access point to provide visibility of the site before access is reached to prevent difficulties of motorists missing the access point and creating congestion on the streets; and
- (d4) To create the occasion of convenience and safety for pedestrians traversing through the lot.

5.3D. Width of Access Drives and Parking Aisles. All access drives and parking lot aisles shall be at least twelve (12) feet wide for one-way traffic and twenty-four (24) feet wide for two-way traffic. Turning radii at the access drives and around the building shall be sufficient for emergency vehicle access as determined by the Fire Chief or his authorized representative.

5.4E. Site Landscaping. The following are the criteria used for landscape design evaluation:

- (a1) The development, through the use of landscape materials, shall be integrated into the surrounding landscape.
- (b2) Landscape materials shall be used to protect abutting properties and enhance the aesthetic quality of the environs and the site. The type, size, and caliper of proposed trees will be evaluated in its effectiveness of enhancing the site. The mixed use of shade trees for defining spaces and providing protection from the elements, evergreens for screening and reduction of noise pollution, as well as the use of ground covers, perennials/annuals/ bulbs and shrubs are encouraged.
- (e3) Removal of mature trees and shrubs shall be minimized.
- (d4) Objectionable features (such as dumpsters, trash compactors, grease traps, containerized storage and utility boxes) on site shall be screened from neighboring properties, and, if applicable, roadways. Any proposed fencing shall comply with the requirements of the Building Department and the Board of Health.

- (e5) Parking lot areas proposed for a site must be adequately landscaped to give relief from the visual impact of an expanse of impervious surface.

5.5F. Minimum Standards for Landscaping. The minimum total square foot of landscaping to insure the above general standards are met shall be 20% of the total lot area of the proposed development. This calculated square footage shall be marked clearly on the submitted site plan. This percentage shall include landscaping in the following four areas of the site:

- (a1) foundation plantings at entry and at building façade facing roadways;
- (b2) parking lot interior (such as planting islands);
- (e3) screening parking areas, loading areas, rubbish removal bins, and outside storage, if applicable; and
- (d4) street line plantings, and perimeter lot line plantings, if applicable.

5.6G. Miscellaneous Structures. The following other site amenities or structures may be proposed in order for the Applicant to meet its landscape requirements of this By-Law, if deemed necessary and appropriate by the Planning Board:

- (a1) Walls, fences, and other barrier material, subject to approval of facing materials;
- (b2) Special paving materials; and
- (e3) Other unique landscaping features not named in this By-Law, which the Planning Board may deem appropriate.

5.7H. General Landscaping Guidelines. The following are general guidelines to be used for developing landscape plans:

- (a1) Parking lots with twenty (20) or more spaces should be screened along the perimeter from abutting properties and the street.
- (b2) For parking lots with forty (40) or more spaces, an area equivalent to at least 15% of the area of the parking lot, should be constructed and landscaped in the interior of the parking lot. The landscaped area should be evenly distributed within the parking lot and should be at least twenty-five (25) feet in area with no dimension less than five (5) feet. One (1) tree, at least three (3) inches in caliper should be installed in each landscaped area. There should be at least one (1) tree for each ten (10) parking spaces.
- (e3) A landscaping strip should be provided along foundation walls.

5.8I. Site Lighting. Accesses, parking areas, and pedestrian walkways shall have adequate lighting for security and safety reasons. Lighting shall be arranged and shielded so as to prevent glare from the site shining onto abutting properties and cars. Lighting shall be designed to reduce wasted light from up-lighting and from sky-glow or light loss. Lighting shall also be designed to enhance the site amenities of the properties through specialty lighting. (After the closing of business hours on the site, lighting services shall be reduced for minimum level necessary for security and safety needs.) To perform these conditions, the following standards shall be met:

- (a1) The light source should be either High Pressure Sodium or Metal Halide. Other sources, such as Mercury Vapor, Incandescent and Tungsten Halogen may be considered by the Board for low level landscaping lighting.
- (b2) The luminaries should be the shoe box type or decorative in nature (with interior directional shields), consistent with the architectural theme of the development. Flood and Area lighting is unacceptable. All luminaries shall have a total cutoff of all light at less than ninety (90) degrees from vertical. The lighting fixture should only be visible from below.
- (c3) Reflectors of proper (IES) distribution shall be selected for maximum efficiency. Reflectors and shielding shall provide total cutoff of all light at the property lines of the parcel to be developed.
- (d4) Developments, which abut residential areas, or, with structures less than 30,000 ~~GSF~~gross square feet shall be reviewed on a case by case basis.
- (e5) Where wall pack type luminaries are utilized for exterior illumination, the fixture shall be equipped with a prismatic lens to reduce glare. Means should be designed to a maximum cutoff of seventy (70) degrees from vertical. The location of wall pack luminaries shall not exceed 20'-0" in height. Wall pack luminaries with visible lamping to normal viewing angles are not recommended.
- (f6) No light bulb wattage may be in excess of 400 watts.
- (g7) Minimum foot-candle requirement, measured at grade level is 1.0 Maximum foot-candle requirement, measured at grade level is 8.0.

5.9J. Loading, Waste Disposal, and Outdoor Storage Areas. Adequate loading and waste disposal areas shall be provided on site. Loading, waste disposal and outdoor storage areas shall be screened by landscaping, walls, fences, or barriers of sufficient height to conceal said areas from the street and abutting residential properties.

5.10K. Drainage. Adequate on-site drainage shall be provided to handle peak stormwater runoff and stormwater runoff shall not adversely affect abutting properties or the Town drainage system. The Applicant shall provide conveyance for the 25 year design storm and storage capable of controlling the 100 year design storm Drainage systems shall also be designed to meet Best Management Practice and all regulations under the Stormwater Management Policy as most recently amended at the time of filing. Applicant is responsible to demonstrate that the system, as designed, will provide adequate total suspended solids (TSS) removal

5.11L. Directional Signage. Directional Signage shall be located on the site so as to provide safe and adequate passage into, out of and through the site. Directional Signage shall be designed to produce quick recognition without distraction on and off the site.

5.12M. Site Construction. Site work for the proposed development shall conform to the following general requirements:

- (a1) All access routes and parking areas shall be graded, paved, and drained to the satisfaction of the Engineering Department.

- (b~~2~~) Curbing, berms wheelstops, guardrails, and/or bollards shall be placed at the edges of all surfaced parking areas as appropriate. Wheelstops shall be provided wherever a parking area directly abuts a sidewalk.
- (e~~3~~) All utility connections shall be constructed in accordance with the requirements of the Engineering Department, Public Works and the Building Department, and other utility owners as applicable.

~~5.13~~N. **Maintenance** All access ways, parking areas, fences, walls, landscaping, lighting, drainage, and waste disposal areas shall be adequately maintained and repaired or replaced wherever and whenever necessary for continued compliance with the appropriate site plan.

Section 6

§ 200-87. Site Plan Administration.

~~6.1~~A. **Waivers.** Upon request of the Applicant, the Planning Board may grant a waiver of any of the site plan requirements only if it is determined that:

- (a~~1~~) Literal compliance is impractical due to the nature of the use;
- (b~~2~~) The location, size, width, depth, shape, or grade of the lot makes compliance impossible;
- (e~~3~~) Such waivers would be in the public interest; and/or
- (d~~4~~) Such waivers would protect natural features.

~~6.2~~B. **Modification to Approved Site Plans.** In the event a modification is made to an approved site plan, the applicant shall submit to the Planning Board revised plans showing the modification. Listed below are situations warranting major review as the original filing, minor reviews requiring Board review at a regular meeting, or no review by the Planning Board. A meeting with the Engineering and Building Departments prior to filing is recommended.

~~6.3~~C. **Major Modifications.** The following modifications to a site plan approval constitute “Major Modifications,” requiring the same review and application of the original filing.

- (a~~1~~) Changes to the principal use structure paved areas, drainage structures, or lot configuration.
- (b~~2~~) Phasing development to allow structures to be constructed in specific separate time frames.
- (e~~3~~) Any other modification which the Planning Board finds to be a substantial alteration of the approved Site Plan.

~~6.4~~D. **Minor Modification.** The following modifications to a site plan approval constitute “Minor Modifications.” The Planning Board may review these following changes to determine the insignificance and consistency within the original approved plan:

- (1A) Reduction in Landscaping or Parking.
- (2B) Requests by applicant to revise conditions of previous decision.

~~(3C)~~ Façade changes to the structure.

~~(e4)~~ Any other modification not listed herein, which the Planning Board deems not to be a substantial alteration of the approved ~~S~~site ~~P~~plan.

~~6.5E.~~ Exemptions. The following alterations or construction operations are exempt from the provisions of this Site Plan Review By-Law:

- ~~(a1)~~ Increase in Landscaping, or shifting of landscaping locations, subject to no change in the Plant List quantities or vegetation types (i.e. groundcovers, shrubs, flowering trees, shade/street trees), with exception to landscaping approved for buffering or to meet buffering requirements of this By-Law.
- ~~(b2)~~ Changes to infrastructure and utility provisions/apparatus with written approval by the Engineering Division and the agency responsible for the utility, with exception to traffic mitigation (to be considered a minor modification).
- ~~(e3)~~ Relocating of less than thirty percent of total approved parking spaces.
- ~~(d4)~~ Moving of Handicapped Parking pursuant to 521 CMR as most recently amended.

~~6.6F.~~ Expiration of Site Plan Approval. Any approval of a site plan which has been granted pursuant to this By-Law shall expire two (2) years from the date of final action, unless work in accordance with the ~~S~~site ~~P~~plan ~~A~~approval has not sooner commenced, except for good cause. Site ~~P~~plan ~~A~~approval may, for good cause, be extended in writing by the Planning Board upon the written request of the Applicant

~~6.7G.~~ Regulations. The Planning Board may adopt and from time to time amend reasonable procedural regulations, application forms, standard construction detail drawings (as included in the Planning Board Subdivision Rules and Regulations), and specifications for the administration of this by-law, without requiring Town Meeting Approval.

~~6.8H.~~ Fees. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

~~6.9I.~~ Appeal. The appeal of any decision of the planning board hereunder shall be made in accordance with the provisions of Massachusetts General Laws Chapter 40A, §17.

~~6.10J.~~ Severability. If any of the provisions of this By-Law are held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this By-Law, it being hereby expressly declared that that this By-Law and each provision hereof would have been adopted irrespective of the fact that any one or more other provision be declared invalid or unconstitutional. Further, if any provision of this By-Law is for any reason held to be in excess of the authority of the Planning Board, such provision shall not affect any other part of this By-Law.

Petitioner: Board of Selectmen
Requested by Planning Board
January 28, 2010

ARTICLE 67 (ID 50)

Amend Article XIV – Site Plan Review Regarding Public Notice

To see if the Town will vote to amend the Stoughton Zoning Bylaw of the Town of Stoughton by making the following deletions (indicated in ~~strike through~~ lettering) and insertions (indicated in underlined lettering) indicted in the following paragraph.

§ 200-84. SITE PLAN APPROVAL PROCEDURE.

D. Public notice. No less than fourteen (14) ~~seven~~ days prior to the date of the public hearing, the applicant shall advertise the public hearing in a newspaper of local circulation, and shall send written notice, by first class mail, to all abutters within 300 feet of the subject property in conformance with G.L. c. 40A, §11. Legal advertisement and all required postage shall be paid by applicant. The legal advertisement and abutter notification shall include, at a minimum, the following information:

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Planning Board
January 28, 2010

ARTICLE 68 (ID 51) Recodification of Stoughton Center Mix Use Overlay District

To see if the Town will vote to accept Article XVI, the Stoughton Center Mixed Use Overlay District By-law, adopted by the Annual Town Meeting, May 10, 2006 as re-codified and re-captioned by General Code Publishers in 2005 which is printed herewith in its entirety and as indicated by the following deletions (indicated in ~~strike through~~ lettering) and insertions (indicated in underlined lettering).

**ARTICLE XVI
STOUGHTON CENTER MIXED USE OVERLAY DISTRICT ~~ZONING BY-LAW~~**

§ 200-91. [1.0] Purpose and iIntent.

A.a) There is hereby established a Stoughton Center Mixed Use Overlay District (SCMUOD) zoning by-law and overlay zoning district by-law map. The benefits of the SCMUOD Zoning By-law shall accrue only to those parcels located within the boundary of the SCMUOD.

B.b) The SCMUOD is intended to apply only to the Town Center portions of the Central Business District (CBD), General Business (GB) ~~D~~istrict, Industrial (I) ~~D~~istrict, and Residential Urban (RU) ~~D~~istrict as shown on the attached overlay zoning district by-law map.

C.e) The SCMUOD is established for the accomplishment of the following purposes:

- (1)• Maintain the cultural and architectural integrity of the Center;
- (2)• Promoting a range and balance of residential and commercial uses in the Center;
- (3)• Promoting efficient use of land within the Town;
- (4)• Facilitating integrated physical design and synergies between activities;

- (5)• Ffacilitating an increase in the variety of housing stock available in the Center;
- (6)• Eenhancing vitality in the Center during both day- and night-time;
- (7)• Ppromoting a pedestrian-friendly living and working environment that encourages transit use and bicycling;
- (8)• Ffacilitating economic development of the Center while remaining consistent with the established Design Guidelines and sensitive to environmental impacts;
- (9)• Encouraging building reuse and appropriate infill development;
- (10)• Promoting innovative and sustainable building and site design.

§200-92. [2-0] Scope of aAuthority.

A. Authority; construal of provisions.

- (1)a) The SCMUOD shall not restrict the owners rights relative to the underlying zoning districts. However, if the owner elects to use the SCMUOD for development purposes, the development shall conform to the requirements of the Stoughton Center Mixed Use Overlay District by-law.
- (2)b) Where provisions of this SCMUOD by-law refer to the provisions in the underlying zoning by-laws and there is a conflict between these provisions, the provisions of this SCMUOD by-law shall prevail.

B.[2-1] Definitions. For all purposes pursuant to this by-law, all terms and words used shall have the meanings as defined by the current Stoughton zoning by-law and shall also include the following:

ARTIST STUDIO/RESIDENCE ~~Artist Studio/Residence~~: A place of work and residence of one or more persons who are engaged actively, and either gainfully employed or as a vocation, in commercial graphic arts; fine arts, including but not limited to painting, printmaking, sculpting, or ceramics; art and document restoration; the performing and visual arts, including but not limited dance, choreography, photography or filmmaking or the composition of music. This definition does not include any use included in the Adult Entertainment Establishment in the Stoughton zoning by-laws, as amended.

MIXED USE DEVELOPMENT ~~Mixed Use Development~~: A combination of residential and non-residential uses, as permitted within the SCMUOD, arranged vertically (in multiple stories of buildings), or horizontally (adjacent to one another in one or more buildings) within a lot.

C. [2-2] District aAreas.

- (1)a) The SCMUOD shall be divided into two distinct areas: SCMUOD Area A and SCMUOD Area B, as shown on the SCMUOD map.
- (2)b) Unless specified otherwise in this by-law, all use, dimensional and design requirements for developments in SCMUOD Area B shall be the same as those within SCMUOD Area A, as amended.

- (3)e) SCMUOD Area B displays a particular physical character that warrants a slightly different planning approach to the remainder of the SCMUOD. The goal of creating Area B is to preserve the physical character of the Area while allowing architecturally appropriate additions and re-use of buildings.

§200-93. [3.0] Special Permit Granting Authority.

A.a) For all purposes pursuant to Section 3.0 of the SCMUOD, the Planning Board is hereby designated as the Special Permit Granting Authority (SPGA). All Special Permit applications made pursuant to the SCMUOD by-law shall conform to the standards and criteria and procedural provisions of the SCMUOD by-law and all relevant procedural provisions in ~~Section X-K §200-64 of this chapter~~ ~~the current Stoughton zoning by-laws~~, except that, wherever ~~Section X-K §200-64~~ refers to ‘Board’ or ‘Zoning Board of Appeals’, this shall mean the SPGA for the purposes of the SCMUOD by-law.

B.b) The SPGA shall adopt and maintain Stoughton Center Design Review Guidelines to support the standards and criteria contained within the SCMUOD by-law.

§ 200-94. [4.0] Uses ~~a~~Allowed by ~~s~~Special ~~p~~Permit.

All uses allowed by right in the underlying zoning district are permissible by Special Permit in the SCMUOD unless listed below as being prohibited.

A.[4.1] Permitted ~~u~~Uses.

- (1) No building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses herein set forth as permissible by Special Permit. These uses may be combined within a single structure.
- (2) Within the SCMUOD, the SPGA may issue a special permit for the following uses:
 - (a) Dwelling units located above a retail, restaurant, professional office and service, personal service, or other non-residential use(s) at ground level, provided that no more than 10% percent of the total number of dwelling units at any one time be units of 3 or more bedrooms;
 - (b) Multistory parking structures, provided that the structure complies with the design standards for parking structures identified in this by-law, as amended;
 - (c) Artist studio/residence;
 - (d) Retail stores and offices including, but not limited to salesrooms and showrooms, consumer service establishments, business and professional offices, executive and administrative offices, banks and other financial institutions;
 - (e) Drive-in automatic teller machines only if located in a secondary “kiosk” style building that is detached from the principle building on the site and the principle building includes 2 or more stories;

(f) Restaurant and other on-premises eating and drinking establishments.

B.4.2 Prohibited ~~u~~Uses.

~~(1)a~~) The following uses are prohibited in the Overlay District:

~~(a)i~~) Adult Entertainment Establishment;

~~(b)ii~~) Drive-in establishments other than those described in the permitted uses section of this by-law;

~~(c)iii~~) Funeral establishments;

~~(d)iv~~) Animal or veterinary hospital;

~~(e)v~~) Sale of new or used automobiles and trucks, automobile tires and other accessories, aircraft, boats, motorcycles, and household trailers;

~~(f)vi~~) Automotive repair, automobile service station or garage, including the sale of gasoline;

~~(g)vii~~) Storage trailers and outdoor storage of goods associated with a commercial use;

~~(h)viii~~) Dwelling units located below ground level.

~~(2)b~~) Within SCMUOD Area B, the following uses shall be prohibited:

~~(a)i~~) Retail

~~(b)ii~~) Eating and Drinking Establishments

C.4.3 Special use provisions: ~~g~~Ground floor uses.

~~(1)a~~) Ground floors of buildings fronting streets or public access ways shall be reserved for commercial uses except as specified below.

~~(2)b~~) Dwelling units shall be allowed on ground floors of buildings only where:

~~(a)~~• ~~T~~he building is set behind another building which has commercial uses on the ground floor; or

~~(b)~~• ~~T~~he residential portion of the first floor of a building is set behind street-front retail/office/restaurant uses within the same building; or,

~~(c)~~• ~~I~~n other cases where the SPGA feels that street-front residential uses will not have an adverse impact on the continuity of the commercial street front uses.

~~(3)e~~) Ground floor commercial uses within the SCMUOD Area B are to be limited to professional offices.

§ 200-95. [5.0] Standards and cCriteria.

A.[5.1] General cCriteria.

- (1) In addition to the specific criteria contained within this section, the SPGA shall consider the following criteria, where relevant before issuing a special permit for development within the SCMUOD:
 - ~~(a)a-~~ Adequacy of the site in terms of the size of the proposed use(s);
 - ~~(b)b-~~ Adequacy of the provision of open space, its accessibility to the general public, and / or its association with adjacent or proximate open space areas;
 - ~~(c)c-~~ Suitability of the site for the proposed uses(s);
 - ~~(d)d-~~ Impact on traffic and pedestrian flow and safety;
 - ~~(e)e-~~ Adequacy of pedestrian access to buildings and between public spaces;
 - ~~(f)f-~~ Impact on the visual character of the Center business area and surrounding neighborhood;
 - ~~(g)g-~~ Adequacy of utilities, including sewage disposal, water supply and storm water drainage;
 - ~~(h)h-~~ Impact of the proposal on the existing mix of structures and businesses in the Town Center; and
 - ~~(i)i-~~ The alignment of future road(s) that may be developed in the Town Center.
- (2) The SPGA may disapprove a proposal that results in the loss of architecturally or historically significant buildings or groups of buildings (for example, converted residential buildings fronting Faxon Park, Pearl Street or Canton Street) that contribute to the existing physical character of the Town Center, or which provide for uses key to the success of economics of the Center.

B.[5.2] Minimum Lot sSize.

- ~~(1)a)~~ The minimum lot size in the SCMUOD shall be no less than 10,000 square feet, unless stated otherwise in this by-law.
- ~~(2)b)~~ Minimum lot size within the SCMUOD Area B shall be not less than 7,000 square feet.

C.5.3 Lot Coverage. In order to enable higher density development within the core business area and lower intensity development nearer to abutting residential districts, the lot coverage requirement within the SCMUOD shall be the same as in the underlying zoning district where the development is proposed. No building area shall be greater than the maximum building area percent shown in the current Zoning By-law Table of Dimensional and Density Regulations.

D.5.4 Minimum Lot Width and Frontage. Lots within the SCMUOD shall have the following minimum frontage and width, as defined in the current Stoughton zoning by-law:

- (1)~~a~~ Minimum lot frontage shall be 20 feet
- (2)~~b~~ Minimum lot width shall be 20 feet

E.5.5 Dwelling Unit Size. The size of dwelling units shall be as per the required unit size identified in the current Stoughton Zoning Bylaw ~~by-law~~ (§200-30I ~~section VI-G-9~~).

F.5.6 Setbacks and Yard Regulations for Buildings.

- (1) Buildings shall be constructed in accordance with the following front, side and rear yard distances, as defined in the current Stoughton Zoning Bylaw ~~by-law~~:
 - (a)~~a~~ Minimum Front Yard depth - 0 feet. Note that this depth is to allow zero-setback structures where appropriate in the CBD; it is not meant for all portions of the SCMUOD, where front yard landscaping would be an appropriate amenity.
 - (b)~~b~~ Maximum Required Front Yard depth – 20 feet or the average of the setbacks to buildings on the same side of the street or way within 200 feet of the lot in question, whichever is the lesser.
 - (c)~~c~~ Minimum Side Yard Width – 0 feet except where the subject property shares a lot line with a residential home (or Residential District), in which case, minimum is 25 feet (note: minimum is 0 feet in CBD)
 - (d)~~d~~ Minimum Rear Yard Depth – 10 feet, except where the subject property shares any lot line with parcel in a residential district and not included within the SCMUOD, in which case, minimum is 25 feet
- (2) No lot on which a building is located shall be reduced or changed in size or shape so that the building or lot fails to comply with the frontage, building coverage, yard distances, or other dimensional provisions of the SCMUOD by-law.

G.5.7 Height.

- (1)~~a~~ The maximum height of buildings or structures, other than accessory rooftop equipment discussed below or special architectural features, is forty feet.
- (2)~~b~~ The height limit does not apply to necessary appurtenances usually carried above roof not used for human occupancy in accordance with the current Stoughton Zoning Bylaw ~~by-law~~ (§200-30H ~~Section VI-G-8~~).

H.5.8 Affordable hHousing.

- (1)~~a~~) In all developments of more than five dwelling units under the provisions of the SCMUOD, no less than 20% of the total number of units shall be affordable to moderate income households. The affordable units may be available for either rental or ownership. A moderate income household is as defined by the U. S. Department of Housing and Urban Development, or by a similar federal agency created to replace it, as adopted by the Commonwealth of Massachusetts Department of Housing and Community Development.
- (2)~~b~~) In computing the number of required affordable units, fractions shall be rounded up.
- (3)~~c~~) The affordable units shall be developed under the Local Initiative Program of the Massachusetts Department of Housing and Community Development or another subsidy program that allows housing to count towards the statutory affordable housing requirement of Chapter 40B of Massachusetts General Law.
- (4)~~d~~) The affordable units must be subject to use restrictions, deed restrictions, or other legally binding instruments to ensure that the units remain affordable and available in perpetuity exclusively to people with qualifying incomes. The units must be sold or rented on a fair and open basis, and the owners of the units must adopt an affirmative fair marketing plan.
- (5)~~e~~) Affordable residential units shall be subject to a Monitoring Agreement to ensure continued compliance with these provisions. The Town may require, for itself or its designee, an option to purchase or lease affordable units for rents, sale prices, or resale prices that are affordable to eligible households. The option shall apply to the initial and any subsequent sale or lease of affordable units.

L.5.9 Accessory bBuildings and sStructures. Detached accessory buildings or structures shall conform to the requirements the current Stoughton Zoning Bylaw ~~by law~~ (§200-29 section VI F).

§ 200-96. 6.0 Site dDesign cCriteria / sStandards.

A.6.1 Open sSpace. A minimum of 10% of the site shall remain as open space, designed and intended for appropriate public use. Open space areas shall be maintained as continually open. In order to be included in the required open space calculation, the open space shall be usable, unobstructed space that is not used for vehicle parking, vehicle circulation, loading spaces, or pedestrian pathways within vehicle parking lots.

B.6.2 Public sSpaces.

- (1)~~a~~) All site development other than the re-use of space in existence on the date of passage of this by-law may be required to include the provision of “public spaces” (pedestrian amenities) such as sidewalks, outdoor seating, patios or courts. Such public spaces may include areas such as outdoor cafes clearly identified for a private purpose that increases the street oriented activity of the site itself.
- (2)~~b~~) These public spaces shall integrate with the existing network of streets and walkways within and adjacent to the SCMUOD to the maximum extent possible, to ensure free movement of motor vehicles, pedestrians and bicycles within the SCMUOD and adjacent

neighborhoods. Public spaces that provide for pedestrian connections across the front of the site and between the front of the site and parking facilities located on the property shall be encouraged by the SPGA. These connections may be provided either within the structure or immediately adjacent to the structure within the site's setback area or other areas deemed appropriate by the SPGA.

(3)e) Public spaces provided within the lot may count towards the minimum open space requirements for the site.

C.~~{6.3}~~ Landscaping ~~r~~Requirements.

(1)a) All developments, other than the re-use of space in existence on the date of Town Meeting acceptance of this By-Law, shall be landscaped with appropriate low-water vegetation and shall comply with all relevant landscaping standards and guidelines in the current Stoughton Site Plan Review By-Law.

(2)b) Landscaping and screening plant materials within the SCMUOD shall not encroach on the public walkways or roadways in a way that impedes pedestrian or vehicular traffic or blocks views of signs within the roadway alignment.

§ 200-97. ~~{7.0}~~ Vehicular ~~a~~Access, ~~p~~Parking and ~~l~~Loading ~~r~~Requirements.

A.~~{7.1}~~ Vehicle Access. Driveways shall not occupy more than 25% of the frontage of any parcel, except for lots less than 40 feet wide. Curb cuts shall be minimized and subject to Design Review by SPGA. Special permit approvals by the SPGA shall encourage off-site pedestrian and vehicular access to existing or future developments on abutting properties in order to facilitate greater pedestrian access and to minimize curb cuts in the SCMUOD.

B.~~{7.2}~~ Vehicle ~~p~~Parking.

(1)a) Adequate off-street parking shall be provided and maintained in connection with all development pursuant to the SCMUOD by-law. In determining adequacy, the SPGA shall consider the extent to which the design maximizes pedestrian flow within the development, maximizes the efficient use of existing and proposed parking facilities, and minimizes the area of land to be paved for parking.

(2)b) To maintain a pedestrian-friendly environment, motor vehicle parking spaces shall be located behind or beside buildings wherever possible. Motor vehicle parking shall not be located directly between the building and the street alignment.

(3)e) The number of off-street parking spaces required in the SCMUOD shall be as per the SCMUOD Table of Parking Space Requirements.

SCMUOD Table of Parking Space Requirements

Use	Parking
Permitted commercial uses (including Retail, Offices, and Restaurants)	As per the Table of Off-Street Parking Regulations in the current Stoughton zoning by-law
Residential uses:	1 space per unit, plus 1 space per 10

Studio units and one bedroom dwelling units	units or part thereof for guest parking
Dwelling units with 2 or more bedrooms	1.5 spaces per dwelling unit plus 1 space per 10 units or part thereof for guest parking

- (4)d) Where the calculation of the number of required parking spaces results in the requirement of a fractional space, any fraction over one-half shall require one space.
- (5)d) Off-street loading shall be provided in accordance with the Off-Street Loading Standards in the current Stoughton Zoning Bylaw ~~by law~~.

C.7.3 Bicycle ~~P~~parking.

- (1)a) Long-term bicycle parking shall be provided for all new developments in the SCMUOD. Long-term parking shall be at least 50% sheltered from the elements.
- (2)b) Bicycle parking or storage spaces are to be located as close as possible to the building entrance(s). Bicycle parking location and design shall be in accordance with relevant provisions in the Stoughton Center Design Guidelines.
- (3)e) At least 1 long-term bicycle parking or storage space shall be created for every 1 residential unit created.
- (4)d) Condo association documents shall be worded to allow bicycle parking within vehicle parking garages.
- (5)e) At least 2 long-term bicycle parking or storage spaces shall be created for commercial uses within the site.
- (6)f) At least 10 long-term bicycle parking or storage spaces shall be created for structured parking lots.
- (7)g) Any property owner required to have bicycle parking may elect to establish a shared bicycle parking facility with any other property owner within the same block to meet these requirements. This shared agreement shall be submitted to the SPGA as part of the Special Permit request.

D.7.4 Special ~~p~~Parking ~~p~~Provisions.

(1)~~7.4.1~~ Shared ~~m~~Motor ~~v~~Vehicle ~~p~~Parking. Shared use of motor vehicle parking is strongly encouraged, however, parking spaces for one use shall not be considered as providing the required spaces for any other use, except when it can be clearly demonstrated that the need for parking occurs at different times. A shared parking agreement shall be submitted to the SPGA as part of any Special Permit request. Said shared parking agreement shall address issues such as the maintenance, striping and snow plowing of the shared parking area.

(2)~~7.4.2~~ Off ~~s~~Site ~~m~~Motor ~~v~~Vehicle ~~p~~Parking.

- (a)a- Off site motor vehicle parking for any use may be considered by the SPGA if located within 500' walking distance of the subject site boundary. Said walking distance shall be by way of marked pedestrian crossings.

- (b) A legally binding agreement from the owner of the subject property containing the proposed off site motor vehicle parking shall be submitted to the SPGA with the Special Permit request. This agreement shall state that easement(s) will be provided for the off site parking upon issuance of a Special Permit. All Special Permits granted pursuant to the SCMUOD by-law shall require that easement(s) be provided for all off site parking. Completed easement documentation shall be presented to the Building Inspector prior to issuance of a Building Permit.

~~E.7.5~~ Loading and ~~w~~Waste ~~d~~Disposal. Loading and waste disposal areas installed after the date of passage of this by-law in the SCMUOD shall follow all relevant current State Board of Health regulations and comply with the Loading and Waste Disposal requirements in the current Stoughton Site Plan Review Bylaw ~~by law~~.

~~E.7.6~~ Lighting. All lighting installed in the SCMUOD after the date of passage of this by-law shall comply with the site lighting requirements in the current Stoughton Site Plan Review Bylaw ~~by law~~. Cobra head light fixtures are not permitted.

§ 200-98. [8.0] Stoughton Center Design Review Standards.

~~A.8.1~~ Purposes. The Stoughton Center Design Review Standards are established for the accomplishment of the following purposes:

- (1) Ensure that Stoughton Center continues to be a unique and identifiable place and destination for residents and visitors and is readily understood as "the heart of Stoughton."
- (2) Enhance the social and economic viability of Stoughton's Center by preserving property values and promoting the attractiveness of Stoughton's Center as a place in which to live, work, visit and shop;
- (3) Preserve and enhance Stoughton Center's cultural, economic and historic resources;
- (4) Promote and encourage building design and building alterations that are compatible with the existing physical environment and are of superior quality or appearance; and
- (5) Promote flexibility and variety in future development to enhance the natural and aesthetic qualities of Stoughton Center.

~~B.8.2~~ Administrative ~~p~~Procedures.

- (1) All applications made pursuant to the SCMUOD by-law shall be subject to Design Review by the SPGA in accordance with the following Design Review Standards and the supporting Stoughton Center Design Review Guidelines. The Stoughton Center Design Review Guidelines shall be made available to anyone upon request.
- (2) Design ~~r~~Review procedures shall follow all relevant Site Plan Approval Procedures within the current Stoughton Site Plan Review Bylaw ~~By Law~~ and shall also include the following:

- (a)ii- SPGA shall consult with all other relevant Town Boards, Commissions and Societies, prior to making a determination on an application. The SPGA may request the Stoughton Historical Society provide input relative to the historic significance of structures in areas proposed for redevelopment under the SCMUOD by-law.
- (b)iii- The applicant shall submit 12 copies of all plans, elevations and illustrations that require Design Review to the members of the SPGA. The SPGA may require submission of a scale model of the proposed development to assess the impacts of the proposal.

~~C.8.3~~ Design Review Standards. New buildings shall be of a design similar or complementary to the historic architecture in Stoughton Center in terms of scale, form, massing, roof shape, spacing and exterior materials. The following design review standards are intended to provide for quality development that maintains a sense of history, human scale and pedestrian-oriented village character.

~~(1)8.3.1~~ Scale.

- (a) Buildings shall relate well to the pedestrian scale by:
 - [1]• Including appropriate architectural details to add visual interest along the ground floor of all facades that face streets, squares, pedestrian pathways, parking lots, or other significant pedestrian spaces;
 - [2]• Articulate the base, middle, and top of the facade separated by cornices, string cornices, step-backs or other articulating features.
- (b) Continuous length of flat, blank walls adjacent to streets, pedestrian pathways, or open spaces shall not be permitted.

~~(2)8.3.2~~ Entrances.

- (a) For visibility and accessibility, all primary commercial and residential building entrances shall be visible from the right-of-way and the sidewalk, shall have an entrance directly accessible from the sidewalk.
- (b) Doors shall not extend beyond the exterior facade into pedestrian pathways.
- (c) Where parking is located to the rear of a building, entrances to dwelling units within the building are to be visible and accessible from the parking lot. All entrances are to have sufficient illumination at night time.

~~(3)8.3.3~~ Architectural Details - Existing Historic Buildings. If a proposed development includes alteration of or addition to an existing historic building, the change shall employ materials, colors, and textures as well as massing, size, scale and architectural features which show consideration for the original structure. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic building shall be preserved whenever possible.

~~(4)8.3.4~~ External Materials and Appearance.

- (a) Except for windows and minor trim, the building shall avoid the appearance of reflective materials such as porcelain enamel or sheet metal.
- (b) Ground floor commercial building facades facing streets, squares, or other significant pedestrian spaces shall contain transparent windows encompassing a minimum of 50% of the facade surface.
- (c) Predominant wall materials shall have the appearance of wood, brick or stone painted or coated in a non-metallic finish.

~~(5)~~~~[8.3.5]~~ Roof form.

- (a) New construction, including new development above existing buildings, may incorporate any form of flat or pitched roof, but such roofs shall be complementary to the roofs of historic buildings in the SCMUOD.
- (b) Flat roofs shall be concealed with parapets along all street frontages and shall not include scuppers or downspouts that outlet above ground level directly into any pedestrian ways.
- (c) Mechanical equipment shall be screened, organized and designed as a component of the roofscape, and not appear to be leftover or add-on element.

~~(6)~~~~[8.3.6]~~ Signs.

- (a) All signs and awnings shall conform to the maximum area, height, number, setback and illumination requirements as set forth in the current Stoughton zoning by-laws.
- (b) Flashing signs, moving signs, and roof signs are not permitted.
- (c) Signs shall be externally lit from the front. Back lighting of signs is prohibited.

~~(7)~~~~[8.3.7]~~ Service ~~a~~Areas, ~~u~~Utilities and ~~e~~Equipment. Service and loading areas and mechanical equipment and utilities shall be unobtrusive or sufficiently screened so that they are not visible from streets or primary public open spaces and shall incorporate effective techniques for noise buffering from adjacent uses.

~~(8)~~~~[8.3.8]~~ Parking ~~s~~Structures. To the extent reasonably feasible, all parking structures shall meet the following design criteria:

- ~~(a)~~ Where parking structures front streets, retail and other non-residential uses shall be encouraged along the ground level frontage to minimize interruptions in pedestrian interest and activity.
- ~~(b)~~ Pedestrian scale elements, awnings, signage and other architectural details and elements (such as adequate landscaping, openings, sill details, emphasis on vertical proportions) and other architectural features shall be incorporated into the design to establish pedestrian scale at the street. The architectural design shall be compatible with existing historic buildings within the immediate

vicinity of the site and within the SCMUOD in terms of style, mass, scale, material, height, and other exterior elements.

~~(c)e~~. Auto entrances shall be located to minimize pedestrian/auto conflicts.

~~(9)[8.3.9]~~ Sustainable ~~b~~Building ~~d~~Design. New buildings constructed in the SCMUOD after the date of passage of this by-law shall comply with the current Leadership in Energy and Environmental Design (LEED) criteria, as promulgated by the U.S. Green Building Council to the extent that is feasible for a developer.

~~(10)[8.3.10]~~ Sustainable ~~s~~Site ~~d~~Design. The SPGA shall encourage the use of the latest best management practices for storm-water management such as Low Impact Development (LID). This may include the use of roof-top landscaping on buildings that have a flat roof.

Petitioner: Board of Selectmen
Requested by Planning Board
January 29 2010

ARTICLE 69 (ID 52) Adoption of Wireless Communication District

To see if the Town will vote to amend the Stoughton Zoning Bylaw of the Town of Stoughton by adopting a Wireless Communications Overlay District in its entirety as follows:

Article XVIII Wireless Communications Overlay District

§ 200-110. Purpose and intent.

The purpose of the Wireless Communications Overlay District (WCOD) is to outline the permitting process to site a wireless communication facility within the Town of Stoughton, while minimizing potential damage and adverse visual impacts of Wireless Communication Facilities on adjacent properties, residential neighborhoods, and areas of historic or high scenic value; to allow the provision of necessary wireless communication services in an orderly way; and to promote shared use of existing facilities to reduce the need for new facilities.

§ 200-111. Special Permit Granting Authority.

For all purposes pursuant to this bylaw, the Planning Board is designated as the Special Permit Granting Authority ("SPGA").

§ 200-112. Definitions.

The following terms when capitalized herein shall have the following meaning unless the context otherwise requires.

DISTANCE shall be measured on a horizontal plane.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

HEIGHT shall be the distanced measured from ground level to the highest point on the structure.

MUNICIPALLY OWNED LAND shall mean land/parcel owned and controlled by the Town of Stoughton, except for land/parcel owned by the School Department with a structure used as a school or for educational purposes.

NON-RESIDENTIAL STRUCTURE shall mean such structures as, but not limited to, buildings, grain silos, and water towers, but does not include houses, or apartments.

WIRELESS COMMUNICATION BUILDING shall mean any building or shelter used to house equipment primarily for the installation and operation of equipment for generating and detecting electromagnetic radiation, and is an accessory to a wireless communication structure.

WIRELESS COMMUNICATION DEVICE shall mean any antenna, appurtenance, wiring or equipment used in connection with the reception or transmission of electromagnetic radiation which is attached to a structure.

WIRELESS COMMUNICATION FACILITY shall be used as a general term to include wireless communication building, wireless communication device, and wireless communication structure.

WIRELESS COMMUNICATION STRUCTURE shall mean any structure or tower intended to support equipment used for the transmission and reception of electromagnetic radiation, including the antennas, wiring or other devices attached to or mounted on a structure.

§ 200-113. Exemptions.

The following shall be exempt from this bylaw:

- A. Wireless Communication Facilities used for Town or State emergency services.
- B. Amateur radio towers used in compliance with the terms of any amateur radio service licensed by the Federal Communication Commission and used solely for that purpose.
- C. Wireless Communication Structures and devices used expressly for home television reception.

§ 200-114. General guidelines.

- A. No Wireless Communication Facility shall be erected, constructed, or installed without a special permit from the SPGA or in conformance with §200-115 below.
- B. Wherever feasible, Wireless Communication Devices shall be located on existing towers, on Municipally Owned Land, or other non-residential structures, minimizing proliferation of new towers.
- C. Wireless Communication Structures shall be built so that the structural integrity of the facility is able to accommodate devices operated by another carrier with little or no modification.

§ 200-115. Siting on municipal land.

Wireless Communication Structures shall be allowed on land owned and controlled by the Town of Stoughton upon the issuance of site plan approval per Article XIV entitled Site Plan Review of this chapter. The Board of Selectmen may lease Town-owned property to facilitate the purposes of this bylaw.

§ 200-116. Siting and height requirements.

A. Setbacks

- (1) The minimum Distance from the base of the Wireless Communication Structure to any property line or road right-of-way shall be at least 1.25 times the height of the structure. To ensure an adequate fall zone.
- (2) The setbacks for the Wireless Communication Building shall comply with the setback requirements for the zoning district.
- (3) The Wireless Communication Structure shall be a minimum Distance of three times the height from school buildings, playgrounds, athletics fields, and abutting residences to prevent the structure from appearing to "tower" over; adversely affecting property values.

B. The height shall be the minimum Height necessary to accommodate anticipated and future use.

D. The Wireless Communication Structure shall, when possible, be sited off ridge lines and where their visual impact is the least detrimental to valuable historic and scenic areas.

E. No new Wireless Communication Structure shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the SPGA that no existing Wireless Communication Structure can accommodate the Applicant's proposed Wireless Communication Device or that there is no Municipally Owned Land where a structure could be erected to provide suitable coverage. Evidence submitted to demonstrate that no existing structure can accommodate the applicant's proposed device may consist of any of the following:

- (1) No existing Wireless Communication Structures or Municipally Owned Land where a structure could be constructed are located within the geographic area required to meet the applicant's engineering requirements.
- (2) No existing Non-Residential Structure could accommodate a proposed device within the geographic area to provide suitable coverage.
- (3) Existing Wireless Communication Structures or non-residential structures are not of sufficient height to meet the applicant's requirements.
- (4). Existing Wireless Communication Structures or Non-Residential Structures do not have sufficient structural strength or cannot be brought up to appropriate strength to support the proposed Wireless Communication Device.
- (5) The proposed Wireless Communication Device would cause electromagnetic interference with the existing devices on the site, or the existing devices would cause interference with the proposed Wireless Communication Device.

- (6) The fee, costs, or contractual provisions required by the owner in order to share an existing Wireless Communication Structure or to adapt an existing structure for use are unreasonable. Each town will have to decide what costs are unreasonable such as equal to or twice the cost of building a new structure.
- (7) The applicant demonstrates that there are other limiting factors that render existing structures unreasonable.

§ 200-117. Design requirements.

- A. Wireless Communication Structures shall be designed to accommodate the maximum number of users as technologically possible.
- B. There shall be no signs or advertisements, except for no trespassing signs and a required sign giving a phone number where the responsible party can be reached on a 24-hour basis.
- C. All Wireless Communication Devices shall be colored, molded, and/or installed to blend into the structure and/or the landscape.
- D. The facility shall be fenced to control access (not necessarily the whole property).
- E. Night lighting of the facility shall be prohibited unless required by the FAA. If required by the FAA, a copy of the FAA permit requiring lighting should be submitted with the application.
- F. There shall be a maximum of one parking space for each facility to be used in connection with maintenance of the site and not to be used for the storage of vehicles or other equipment.
- G. Existing on-site vegetation shall be preserved to the maximum extent possible.
- H. Vegetative screening shall be used to screen abutting residential properties and roadways. Plants that fit in with the surrounding natural vegetation shall be used.

§ 200-118. Application process.

- A. Applications submitted under this bylaw shall be subject to the application procedure requirements of §200-84.B.
- B. Application and Technical review fees shall be submitted concurrently with any application submitted in conformance with this bylaw.
- C. New Wireless Communication Structures. To site a new Wireless Communication Structure, the Applicant shall submit:
 - (1) Site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts, on 24" x 36" sheets at a scale of 1"=40, or 1"=200, where appropriate, on as many sheets as necessary which shows the following:
 - (a) north arrow, date, scale, seal(s) of the licensed professional(s) who prepared plans and space for reviewing licensed engineer's seal.
 - (b) name and address of landowner and name and address of abutters.

- (c) property lines and location of permanent structures or buildings, within 500-foot radius of proposed wireless communication structure.
 - (d) existing (from a topographical survey completed within 2 years of application submittal date by a professional surveyor licensed to practice in Massachusetts) and proposed contour lines at a maximum of 2-foot intervals and spot elevations at base of all the proposed and existing structures.
 - (e) vegetation to be removed or altered.
 - (f) plans for drainage of surface water and plans to control erosion and sedimentation both during construction and as a permanent measure.
 - (g) delineation of wetlands, if any.
 - (h) location of Wireless Communication Structure, including supports or guy wires, if any.
 - (i) plans for anchoring and supporting the structure, including specifications of hardware and all other building material.
 - (j) plans for accessory buildings.
 - (k) layout and details of surfacing for access road and parking.
 - (l) amenities such as lighting, fencing, and landscaping.
 - (m) Four view lines in a one to three -mile radius of the site, beginning at True North and continuing clockwise at ninety-degree intervals, plus additional view lines from any historic, scenic, or other prominent areas of Town determined by the SPGA.
- (2) A map showing the areas covered/served by the proposed Wireless Communication Structure and device of different signal strengths, and the interface with adjacent service areas.
 - (3) A locus map at a scale 1"=1000,(or whatever is necessary to show where in town the proposed tower is sited) which shall show streets, and landscape features.
 - (4) A description of the soil and subsurface geology at the proposed site.
 - (5) A narrative report written by the carrier and licensed professional engineer which shall:
 - (a) Describe the justification of proposed site.
 - (b) Describe the structure and the technical, economic, and other reasons for the facility design.
 - (c) Describe the capacity of the structure, including the number and type of additional facilities it can accommodate.

- (d) Describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC.
 - (e) Describe the projected future needs of the carrier, and how the proposed Wireless Communications Facilities fit with future projections to serve the Town and adjacent towns.
 - (f) Describe leasing agreement should another carrier desire to co-locate.
 - (g) Describe special design features to minimize the visual impact of the proposed Wireless Communication Facility
- (6) Proof of approval of all other necessary permits needed for construction and operation.
 - (7) Within 35 days of submitting an application, the applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height of the proposed facility. The dates (including a second date, in case of poor visibility on the initial date), times, and location of this balloon test shall be advertised, by the applicant, at least 7 days in advance of the first test date in a newspaper with a general circulation in the Town of Stoughton. The applicant shall inform the SPGA, in writing, of the times of the test at least 14 days in advance. The balloon shall be flown for at least four (4) consecutive hours between the hours of 8:00 a.m. and 6:00 p.m. on the dates chosen, which shall be on a weekend.
 - (8) Applicants proposing to erect Wireless Communications Facilities and Structures on Municipally Owned Land shall provide evidence of contractual authorization from the Town of Stoughton to conduct wireless communications services on said property.

D. Existing Wireless Communication Structure or Non-Residential Structures. To site a Wireless Communication Devise on existing Wireless Communication Structures or Non-Residential Structures, such as buildings, steeples, water towers or other non-residential structures, including co-location with another carrier, provided that the new use does not add to the height of the structure, the Applicant shall submit:

- (1) Site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts, on 24" x 36" sheets at a scale of 1"=40, or 1"=200, on as many sheets as necessary which shows the following:
 - (a) north arrow, date, scale, the seal(s) of the licensed professionals who prepared the plans and a space for the reviewing licensed engineer's seal.
 - (b) plans for supporting and attaching the device including specifications of hardware and all other building material.
 - (c) building plans for accessory buildings, if any.
 - (d) layout and details of surfacing for access road and parking, if it is to be altered from existing condition.
- (2) A map showing the areas covered by proposed device(s) of different signal strengths and the interface with adjacent service areas.

- (3) A narrative report written by the carrier and licensed professional engineer which shall:
 - (a) include a draft of the contract between the structure/building owner (whichever appropriate) and the Applicant.
 - (b) demonstrate that the Wireless Communication Structure or non-residential structure to which the device will be mounted has the structural integrity to support such device.
 - (c) describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC.
 - (d) describe the projected future needs of the carrier, and how the proposed facility fits with future projections.
- (4) Proof of approval of all other necessary permits needed for construction and operation.
- (5) If the proposed facility adds more than five feet to the height of the structure at the effective date of this by-law and will exceed zone height restrictions, the SPGA may require a balloon test as described above in §200-118.B.7.

§ 200-119. Decision process.

- A. Action on an application submitted under this bylaw shall occur only after a public hearing noticed in accordance with G.L. c. 40A, §11. Decisions on an SPGA application shall be filed in the office of the Town Clerk and are appealable pursuant to G.L. c. 40A, §17.
- B. In granting a special permit for Wireless Communication Facilities, in addition to the findings required by the Town's Zoning By-law for Special Permits, the SPGA shall find:
 - (1) That the Applicant has demonstrated to the satisfaction of the SPGA that the requirements of this by-law have been met.
 - (2) That the size and Height of the structure is the minimum necessary.
 - (3) That the proposed Wireless Communication Facilities will not adversely impact historic structures or scenic views.
 - (4) That there are no feasible alternatives to the location of the proposed Wireless Communication Facilities, including co-location that would minimize their impact and the applicant has exercised good faith in permitting future co-location of facilities at the site.
- C. When considering an application for a Wireless Communication Facility, the SPGA shall place great emphasis on the proximity of the facility to residential dwellings, its impact on these residences, and will encourage the use of existing structures.
- D. Any extension, or construction of new or replacement towers or transmitters shall be subject to an amendment to the Special Permit, following the same procedure as siting a new wireless communication device on an existing structure.

§ 200-120. Conditions of use.

A. The applicant shall post an initial bond to cover construction costs and an annual maintenance bond to cover maintenance for the access road, site, and structure(s) and to cover the removal of facility in the event of non-operation in an amount approved by the SPGA. An access road may include existing town roads not designed for heavy traffic.

B. Regulatory Compliance

- (1) Annual certification demonstrating structural integrity and continuing compliance with current standards of the FCC, FAA and the American National Standards Institute shall be filed with the Building Inspector by the Special Permit Holder, and shall be reviewed by a licensed professional engineer hired by the town and paid for by the Special Permit Holder
- (2) If the FCC or the FAA regulations are changed, the owner or operator shall bring the facilities into compliance within six months or earlier if a more stringent compliance schedule is included in the regulation.
- (3) Failure to comply with any regulations shall be grounds for removal of non-complying structures, buildings, devices at the owner's expense.
- (4) If the device is moved lower on the structure and the top of the structure is no longer needed, then the non-operational part of the structure shall be removed within 120 days.

C. Removal and repair.

- (1) An applicant must execute a covenant with the SPGA agreeing to remove, within 180 days of notice from the town, the Wireless Communication Facility not in operation for a period of twelve months, unless the reason for non-operation is the result of major damage.
- (2) If the facility is not removed within 180 days, the Town will remove said facility at the owner's expense.
- (3) In the event of major damage, repair must begin within six months of damage. Major damage shall mean damage to the facility caused by no fault of the owner or operator.

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Planning Board
January 29 2010

ARTICLE 70 (ID 53) Adoption of Highway Access Business District

To see if the Town will vote to amend the zoning bylaw and the official map to add a "Highway Access Business District," by adopting the following in its entirety:

Article XVII
Highway Access Business District

§ 200-99. Purpose and Intent.

- A. The Highway Access Business District ("HABD") is established to ensure the planned and orderly development of areas located at the northern and southern-most areas of the town close to major highway interchanges and in proximity to neighboring towns. The district is intended to support land uses and activities that will promote economic development based on the advantageous location of the district and access to major highways that will generate positive tax revenue while providing opportunity for new business growth and additional local jobs. The HABD will integrate land uses promoting economic growth with existing land uses and activities and provide appropriate standards for planned development that provide mitigation of traffic and environmental impacts. The HABD will permit uses by right that are consistent with the overall objective of promoting economic development in locations with access to major highways with appropriate and managed controls while allowing variations and intensifications of those uses through the special permit process. Landscape buffer requirements for the district are imposed where the district abuts residential properties.
- B. Applicability. The HABD is intended to apply only to those properties as shown on a map on file with the Town Clerk entitled "Highway Access Business District", Town of Stoughton Massachusetts, dated February 2, 2010.

§ 200-100. Definitions.

The following terms when capitalized herein shall have the following meaning unless the context otherwise requires.

- A. MIXED-USE DEVELOPMENT. A combination of residential and non-residential uses within one lot.
- B. HIGHWAY ACCESS SHOPPING CENTER. Shopping center incorporating multiple retail stores or commercial buildings with market draw and appeal extending beyond town borders, on a single parcel of land, or on single parcels continuously arranged and sharing one or more means of access and egress. Uses may include department stores, general merchandise stores, food markets and other uses permitted in the HABD.

§ 200-101. Special Permit Granting Authority.

For all purposes pursuant to the HABD, the Planning Board is designated as the Special Permit Granting Authority ("SPGA").

§ 200-102. Allowed development.

The following uses are allowed as of right in the HABD:

- A. Retail establishments selling principally convenience goods including, but not limited to, food, drugs and proprietary goods.
- B. Retail establishments selling general merchandise, including, but not limited to, dry goods, apparel and accessories, furniture and home furnishings, home equipment, small wares and hardware, including discount and limited price variety stores.
- C. Restaurant and food service establishments including restaurants serving alcoholic beverages and including fast food restaurants but not including restaurants with drive through components.
- D. Professional and business offices and services, including banks.
- E. Consumer service establishments and business and repair services.
- F. Personal service establishments such as hair salons and beauty service establishments offering a combination of services such as manicure and pedicure services, health clubs, and spas.
- G. Trade, professional and other schools.
- H. Licensed childcare and other early education facilities.
- I. On parcels five (5) acres or more, Highway Access Shopping Center as defined in § 200-100 hereof.

§ 200-103. Special permit uses.

The following uses shall be permitted by special permit in the HABD:

- A. Drive through fast food establishments upon the determination by the SPGA: (i) that such drive through fast food establishments shall be consistent and compatible with the overall development of the site; (ii) that such establishments will not contribute to traffic or pedestrian hazard; and (iii) for establishments proposed within a Mixed Use Development or regional shopping center that the drive through fast food establishment will provide a traffic circulation pattern that is consistent with and does not denigrate from the overall internal traffic circulation pattern of the site.
- B. Highway Access Shopping Center on sites of less than five acres.
- C. Mixed Use Developments
- D. Conversion of professional and business office to residential.
- E. Any use specified above as a permitted use with a density or intensity greater than permitted as of right, as set forth in §200-104 below.
- F. Any uses similar or accessory to those authorized by § 200-102 not injurious to the neighborhood.

§ 200-104. Dimensional controls and site design.

- A. Minimum lot area, minimum lot width, minimum lot frontage, minimum lot depth and minimum yards shall be consistent with those set forth in the Table of Dimensional and Density Regulations for the Neighborhood Business District.
- B. Maximum building area shall be 50% by right and up to 70% by special permit; provided, however, that no lot on which development is proposed in excess of one acre shall be permitted to have a maximum building area greater than 60%.
- C. Maximum stories shall be three by right and up to six by special permit.
- D. Minimum open space shall be 20%.
- E. In any HABD that abuts a residential zone or a residential use, a landscape buffer of 30 feet shall be provided between a residential zone and any single story building in a HABD. For each additional story, an additional ten feet of buffer shall be provided. For example, in the case of a three story building, a buffer of 50 feet shall be provided (30 feet plus 10 feet for each of two additional stories). Except in the cases where such buffers include bordering vegetated or other wetlands, which may be left in a natural and undisturbed state, all such buffers shall be densely vegetated and include a mixture of deciduous and evergreen trees. Through the issuance of a special permit, the Board may grant relief from this buffer requirement if it is demonstrated that the intent of this provision may be achieved by a lesser buffer, or mitigating factors such as agreements for offsite landscaping and screening have been made.

§ 200-105. Building design standards.

- A. All primary entrances to commercial and residential buildings shall be visible from a street, roadway or public vantage point.
- B. Where parking is located behind a building, entrances to the building are to be visible and accessible from the parking lot.
- C. All building entrances shall have night time illumination. Such illumination shall be downward facing in design and dark sky compliant to the extent feasible. Illumination from lighting shall not be permitted to spill onto adjacent properties.
- D. Exterior walls longer than 60 ft and visible from public vantage points shall incorporate glazed openings, variations in texture or materials, or other design elements of size and proportion adequate to the pedestrian scale.
- E. Ground floor commercial building façades facing streets, roadways, squares or public space shall contain transparent windows encompassing a minimum of 30% of the façade length.
- F. Flat roofs shall be concealed with parapets along street frontages and public vantage points, and shall not have scuppers or downspouts that outlet above ground level directly into pedestrian ways.
- G. Garage buildings facing a street or public space shall incorporate commercial activities at the ground level and/or architectural design elements that relate to the pedestrian scale, such as façade openings and articulation, awnings, signs, banners, variations in color or material, etc.

- H. Mechanical equipment on the tops of buildings shall be incorporated within a rooftop design element, such as a pitched roof or dormer, or properly screened from public view in ways compatible with the proposed architecture.

§ 200-106. Signage and lighting.

- A. Signs shall identify businesses, addresses, owners or professionals on the premises, not products or brand names unless the brand name is inherent in the name of the business.
- B. Signage shall conform to a set of consistent design principles created for the project and approved by the SPGA during site plan review.
- C. Wall signs and projecting signs shall be allowed for retail establishments subject to the provisions of §200-33 of the Stoughton Zoning By-law.
- D. In a multiple storefront building, signage should be of a consistent location, size and material, shall not be mounted on the rear of buildings and must be viewable from a public way.
- E. For Mixed Use Developments and Highway Access Shopping Centers comprised of multiple buildings and uses, the SPGA shall approve such signage as is consistent with the overall size of the development, the number of tenants and the goal of identifying those tenants to members of the public driving on adjacent roadways.
- F. Flashing signs, moving signs, signs with crawling or alternating text, signs utilizing LED technology to display text or images, neon signs, and rooftop signs shall not be allowed in the HABD.
- G. Outdoor lighting fixtures shall be shielded and directed to prevent illumination from falling onto adjacent lots and streets.

§ 200-107. Affordable housing.

- A. In all developments containing more than five dwelling units, no less than 20% of the total number shall be affordable to moderate-income households. The affordable units may be available for either rental or ownership. A moderate-income household is defined by the U.S. Department of Housing and Urban Development, or by a similar federal agency created to replace it, as adopted by the Commonwealth of Massachusetts Department of Housing and Community Development.
- B. In computing the number of required affordable housing units, fractions shall be rounded up.
- C. The affordable units shall be developed under the Local Initiative Program of the Massachusetts Department of Housing and Community Development or another subsidy program, that allows housing to count towards the statutory affordable housing requirement of Chapter 40B of Massachusetts General Law.
- D. The affordable units must be subject to use restrictions, deed restrictions, or other legally binding instruments to ensure that the units remain affordable and available in perpetuity exclusively to people with qualifying incomes. The units must be sold or rented on a fair and open basis, and the owners of the units must adopt an affirmative fair marketing plan.

- E. Affordable residential units shall be subject to a monitoring agreement to ensure continued compliance with these provisions. The Town may require, for itself or its designee, an option to purchase or lease affordable units for rents, sale prices, or resale prices that are affordable to eligible households. The option shall apply to the initial and any subsequent sale for lease of affordable units.

§ 200-108. Review and decision process.

- A. All proposed construction requiring a building permit in the HABD shall be subject to the provisions of Chapter 200 Article XIV entitled Site Plan Review. In cases where a special permit is required pursuant to § 200-103 or § 200-104(E) hereof, the required site plan review application shall be submitted simultaneously with the application for special permit and shall be considered at the same public hearing.
- B. For the purpose of this HABD by-law, provisions of §200-64 of the Stoughton Zoning By-law shall apply, except that wherever §200-64 refers to the ‘Table of Use Regulations’, this shall mean Allowed Development under §200-102 of this HABD by-law.
- C. The SPGA may at its discretion approve, approve with conditions, approve with an associated development agreement, or deny for reasons of incompatibility with the applicable regulations and standards.
- D. Proponents must show conformance to the standards for the HABD, and any other applicable standards and requirements of the Stoughton by-laws, or reasons why any of the standards cannot be met. When the standards cannot be met, the SPGA may apply reasonable conditions or enter into a development agreement with the proponent that will provide mitigation or other improvements that meet the purpose and intent of each standard, or show reasons why the standard is not applicable to the project.
- E. Impacts requiring mitigation may include, but not be limited to the following:
 - (1) Traffic impacts to the existing roadway infrastructure that may require the widening of roads and intersections to accommodate new traffic generated by the proposed development.
 - (2) Traffic impacts that may require the provision of additional turning lanes, updating or provision of new traffic signals, and pedestrian safety improvements such as sidewalks and crosswalks.
 - (3) Traffic impacts that may require construction of new service roads, local arterials or new highway access ramps, subject to permitting and approval by the corresponding local and state authorities.
 - (4) Environmental impacts to the existing wetlands, flood hazard areas and watershed areas.
 - (5) Impacts to water supply and sanitary infrastructure, such as impacts that may require the expansion of the existing water and wastewater treatment systems, the provision or construction of new water mains and distributing pipes, sewer and stormwater collectors, pump stations, etc.

- (6) Any other impact that may result in a measurable economic or legal burden to the Town.
- F. All approvals with conditions, which may or may not include a development agreement, may require resubmission of revised plans and approval of the same by the SPGA prior to issuance of a building permit.
- G. The SPGA may require a surety, of a type approved by the SPGA and according to the Site Plan Review By-law, for completion of any or all improvements shown within the permitted project.
- H. Action on a site plan application for any proposed project in an HABD zoning district shall occur only after a public hearing noticed in accordance with G.L. c. 40A, §11. Decisions on an SPGA application shall be filed in the office of the Town Clerk and are appealable pursuant to G.L. c. 40A, §17.

§ 200-109. Severability.

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of these provisions shall not be affected.

or take any other action relative thereto.

Petitioner: Board of Selectmen
 Requested by Planning Board
 January 29 2010

ARTICLE 71 (ID 54) Amend Zoning Article III – Establishment of Zoning Districts

To see if the Town will vote to amend the Stoughton Zoning Bylaw of the Town of Stoughton by making the following deletions (indicated in ~~strike through lettering~~) and insertions (indicated in underlined lettering) indicted in the following.

**ARTICLE III
 Establishment of Zoning Districts**

§ 200-4. DIVISION INTO DISTRICTS. [AMENDED 4-25-1978 TM, ART. 53; 5-3-1999 TM, ART. 3]

The Town of Stoughton, Massachusetts is hereby divided into 11~~10~~ zoning districts to be designated as follows:

Full Name	Short Name
Residential-Suburban A	RA
Residential-Suburban B	RB
Residential-Suburban C	RC
Residential-Urban	RU
Residential-Multifamily	R-M
Central Business District	CBD
General Business	GB
Neighborhood Business	NB
Highway Business	HB

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Planning Board
January 29 2010

ARTICLE 72 (ID 69) Amend Zoning from RC to HABD

To see if the Town will vote to amend the Town of Stoughton Zoning By-Law and Map by changing from R-C (Residential) to HABD (Highway Access Business District) the area as follows:

In “North Stoughton” beginning at the centerline intersection of Page Street and Turnpike Street (Rt. 139):

thence running southerly by the centerline of Turnpike street being the existing Neighborhood Business District Boundary line 900 feet, more or less:

thence continuing southerly by the centerline of Turnpike street (Rt. 139) 960 feet, more or less, to the existing Industrial District:

thence running at right angles easterly 250 feet, more or less, being the existing Industrial Business District boundary line:

thence running at right angles northerly 960 feet, more or less, at the existing Industrial District boundary line:

thence continuing northerly at a 135 degree angle being the exiting Industrial District Boundary line to the centerline of Page Street:

thence running northwesterly by the centerline of Page Street being the existing Industrial District boundary line 980 feet, more or less, to the Neighborhood Business District at the centerline intersection of Page Street and Turnpike Street (Rt. 139) being the point of beginning; or take any action relative thereto.

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Planning Board
January 29, 2010

ARTICLE 73 (ID 39) Amend Zoning By-Law and Map, Page and Turnpike St.

To see if the Town will vote to amend the Town of Stoughton Zoning By-Law and Map by changing from R-C [Residential] to I (Industrial) the area as follows:

In “North Stoughton” beginning at the centerline intersection of Page Street and Turnpike Street (Rt.139);

thence running southerly by the centerline of Turnpike Street being the existing Neighborhood Business District Boundary line 900' more or less;

thence continuing southerly by the centerline of Turnpike Street (Rt. 139) 960' more or less to the existing Industrial Business District boundary line;

thence running at right angles northerly 960' more or less at the existing Industrial District boundary line;

thence continuing northerly at a 135 degree angle being the existing Industrial District boundary line to the centerline of Page Street;

thence running northwesterly by the centerline of Page Street being the existing Industrial District boundary line 980' more or less to the Neighborhood Business District at the centerline intersection of Page Street and Turnpike Street (Rt. 139) being the point of beginning; or take any other action relative thereto.

[Map]

Petitioner: Jacqueline Weeks, 1517 Turnpike Street, Stoughton, et. al.
December 31, 2009

ARTICLE 74 (ID 65) Rezoning of Parcels from Neighborhood Business to General Business and Amend Stoughton Zoning Map

[Map]

To see if the Town will vote to amend the Town of Stoughton Zoning Map by rezoning the current Neighborhood Business District, which is bound by the Brockton Town Line to the south and Park Street on the west to General Business.

or take any other action relative thereto.

Petitioner: Board of Selectmen
Requested by Planning Board
January 28, 2010

You are hereby directed to serve this warrant by posting attested copies hereof at not less than nine public places in the Town, seven, days, at least, before the time of holding said meeting and you are hereby directed to have three hundred copies brought to the meeting for distribution.

Hereof fail not and make due return of this Election and Annual Town Meeting Warrant with your doings thereon to the Town Clerk at the meeting aforesaid.

Given under our hands this second day of February in the year of Our Lord Two Thousand and Ten at Stoughton, Massachusetts.

STOUGHTON BOARD OF SELECTMEN

Stephen G. Anastos, Chairman

John M. Anzivino, Vice-Chairman

John D. Anderson

Joseph M. Mokrisky

Cynthia A. Walsh

A true copy. Attest:

Cheryl A. Mooney, Town Clerk

Lawrence Verdun, Constable